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Maryland. Constitutional Convention Commission.  
Committee on the Executive Department.

Reports, 1st (rev.) - 8th; and Meeting of  
Committee on Executive Department with Governor  
J. Millard Tawes ... February 24, 1966, ...  
Baltimore, Maryland.



C O N S T I T U T I O N A L   C O N V E N T I O N   C O M M I S S I O N

FIRST REPORT

(AS REVISED)

OF THE

COMMITTEE ON THE EXECUTIVE DEPARTMENT

April 11, 1966

RE:   POLICY QUESTIONS FOR CONSIDERATION OF THE FULL  
COMMISSION; GENERAL QUALIFICATIONS FOR THE  
GOVERNORSHIP; GENERAL CONDITIONS OF HOLDING OFFICE  
AS GOVERNOR; GOVERNOR'S POWER OF EXECUTIVE CLEMENCY.

I.   POLICY QUESTIONS.

The Committee on the Executive Department refers the  
following policy question to the Commission:

Should there be a limit on the number  
of terms the Governor may serve?

II.   GENERAL QUALIFICATIONS FOR THE GOVERNORSHIP.

The Committee recommends that the only prerequisites for  
service as governor should be two years qualification as a  
registered voter in the State of Maryland, and having attained  
thirty years of age. The Committee feels that the present  
provisions of Article 2, Section 5 requiring ten years citizen-  
ship and five years residence in Maryland are too restrictive.  
The ten-year citizenship requirement is the longest imposed  
by any state. Furthermore, in light of the difficulty of  
defining Maryland residence or citizenship, the present require-  
ments might be used to question the qualification of a candidate  
who has been out of the State serving in the federal government  
or the Armed Services.



### III. GENERAL CONDITIONS OF HOLDING OFFICE AS GOVERNOR.

The Committee recommends that the Constitution specify neither the Governor's salary nor place of residence while in office. The disadvantages of a constitutional ceiling on the Governor's salary are clearly indicated by Maryland experience. Article 2, Section 21 of the 1867 Constitution fixed the Governor's salary at \$4,500. This dollar limit remained in the Constitution until 1955, long after it had become grossly inadequate. In 1955 the salary was raised to \$15,000 and at the 1966 General Election another amendment is to be considered to raise the salary to \$25,000. Although the Committee recommends that the Constitution not fix the Governor's salary, it urges that the supporting legislation establish the Governor's salary at \$35,000 to \$50,000, a sum more commensurate to what a chief executive receives in private life. The question of whether there should be a general constitutional provision stating that the salary of public officials cannot be reduced while holding office was referred to the Miscellaneous Provisions Committee for consideration.

found

The provision of Article 2, Section 21 requiring that the Governor reside at the seat of government was rejected by the Committee because it is felt that it serves little useful purpose and may occasion difficulties. Governors will undoubtedly continue to reside in Annapolis because of tradition, the availability of the executive mansion, and because it promotes the expeditious conduct of State business. To constitutionally specify this as his place of residence,





however, may prevent a former Governor from running for another public office with a different residency requirement. In Gallagher v. Board of Elections, 219 Md. 192, 148 A.2d 390 (1958), an attempt was made to use this section to disqualify Mayor McKeldin as a candidate for Mayor of Baltimore City (which has a ten-year residency requirement) following his service as Governor. Although the court found that as a matter of fact Mayor McKeldin had remained a resident of Baltimore City, the section should be deleted to foreclose further litigation of this sort.

#### IV. GOVERNOR'S POWER OF EXECUTIVE CLEMENCY.

The Committee recommends that the Governor should continue to have the personal power to grant reprieves and pardons and to remit fines for offenses against the State. It is felt, however, that Article 2, Section 20 should be altered in several respects. First, the Governor should not have the power to grant a nolle prosequi.

The Committee feels that the Governor should not be permitted to intervene until the criminal prosecution process is completed. Governor Tawes, Governor Lane and Mayor McKeldin all stated in their testimony before the Committee that they did not feel the Governor should have this power. Secondly, the Committee feels that those provisions of Article 2, Section 20 which require newspaper notice before the exercise of the power of pardon or reprieve and a report to the legislature thereafter are unnecessary.

Respectfully submitted,

Committee on the Executive Department



# CONSTITUTIONAL CONVENTION COMMISSION

## THIRD REPORT OF THE COMMITTEE ON THE EXECUTIVE DEPARTMENT

July 17, 1966

RE: STRUCTURE OF THE EXECUTIVE BRANCH

### I. INTRODUCTION.

In an address to the General Assembly on March 22, 1966, Governor Tawes announced the establishment of the Commission for the Modernization of the Executive Branch of Maryland Government. In this same speech Governor Tawes formulated the following basic guidelines for organizing an efficient administrative structure:

(1) The basic plan should be as simple as possible, and the number of separate organizational units should be held to a minimum.

(2) Related activities should be grouped together for most effective administration and minimum overhead cost.

(3) Departments should be under single administrative heads to the maximum extent possible.

(4) Lines of authority should be clearly defined and the channels of communication open from top to bottom.

(5) The span of executive control required of any official should be no wider than will permit adequate supervision of the activities immediately under his direction.

(6) Adequate staff assistance should be available to administrators to provide continuing reviews of organizational and operating procedures.

(7) While purely administrative powers should be assigned to single department heads, quasi-legislative and quasi-judicial powers should in some instances be assigned to plural bodies.





The proposed reorganizational arrangement is basically one of administrative integration--the establishment of a pyramid of hierarchical authority, the governor at the top with the administrative agencies arranged into functional groupings under him. The advantages of such a plan are manifest. First, a systematic and rational arrangement of state agencies should result in greater coordination in state activities and economies through joint house-keeping activities. Second, the proposed reorganizational scheme should make the executive department of government more responsible and accountable to the people. Since the governor would have the power to direct, he could be held responsible for the conduct of the executive branch through the elective process. The recommendations which follow are designed to remove the constitutional obstacles to administrative integration.

## II. RECOMMENDATIONS.

1. The comptroller and attorney general should be appointed by the governor rather than popularly elected.

### Comment:

There are several reasons why this Committee feels that the comptroller and attorney general should be appointed rather than elected. First, the election of the comptroller and attorney general limits the governor's control over the executive branch of government. Since the comptroller and attorney general hold office for a term of years and may have a separate electoral "power-base", the governor's influence in the areas of law enforcement and fiscal affairs is diluted. As first Hoover Commission said, "the exercise of authority is impossible without a clear line of command from top to



bottom and a return line of responsibility and accountability from bottom to top." The election of the comptroller and attorney general interferes with both the line of command and the line of accountability..

Second, in light of the functions of the comptroller and attorney general it appears that they should be appointed rather than elected. Both the comptroller and attorney general are primarily administrators rather than policy-makers. The primary functions of the comptroller are to superintend the accounting and pre-auditing of expenditures of the State, and to collect taxes; the primary function of the attorney general is to serve as legal counsel for the governor, the executive department, and the legislature. Hence, the main qualifications for both offices is technical expertise which the voters ordinarily will not be in a position to accurately gauge.

Mayor McKeldin, in his testimony before the Committee, took the position that the attorney general should be elected so that he would be free of any suspicion of being subject to the governor's influence. The majority of the Committee feels, however, that the attorney general's position as a lawyer, and function as an interpreter of the law, will be a sufficient safeguard against undue influence. The Sobeloff-Stockbridge Commission in 1953 also took the position that the attorney general should be appointed by the governor. See 12th Report of the Commission on Administrative Organization of the State p. 26 (1953).

(2) The Constitution should create the office of lieutenant governor. The lieutenant governor should be elected on the same ticket with the governor and act essentially as an "assistant governor" having those powers delegated to him by the governor.





Comment:

The creation of the office of lieutenant governor would not undermine the governor's control over the executive branch because the lieutenant governor would be constitutionally subservient to him. Moreover, the establishment of such an office has positive advantages. It permits an orderly succession to the governorship in the event of death or disability of the incumbent. It provides the governor with an official assistant to whom he can delegate some of his ever-increasing duties. In their testimony before the Committee both Governor Tawes and Governor Lane felt that such an official could be usefully put to work. Finally, the office would provide a political testing ground for the governorship.

(3) The governor and lieutenant governor should be the only constitutionally created executives offices. No executive departments or agencies should be constitutionally created.

Comment:

The Maryland Constitution presently creates the following executive offices, departments and agencies: Governor (Art. 2, §1); Secretary of State (Art. 2, §22); Attorney General (Art. V, §1); State's Attorneys (Art. V, §7); Treasury Department (Art. VI); Comptroller (Art. VI, §1); Treasurer (Art. VI, §1); State Librarian (Art. VII, §3); and Commissioner of the Land Office (Art. VII, §4). It is submitted that none of these offices, departments and agencies should be constitutionally created except the office of governor and the new office of lieutenant governor.

The constitutional creation of executive offices and agencies interferes with administrative reorganization since consolidation



and reallocation of duties may not be accomplished by the normal law making process. Since the Commission for the Modernization of the Executive Branch of Maryland Government is currently at work reorganizing the administrative structure of the State, it is felt that the new Constitution should not impede their work.

This Committee is aware that both the Committee on the Legislative Department and the Committee on State Finance and Taxation are considering the advisability of the creation of a constitutional official, primarily responsible to the legislature, who would be charged with the "post audit" of the books and accounts of the various state departments and agencies. This recommendation is not intended to preclude the creation of such an office.

Respectfully submitted,

Committee on the Executive Department



CONSTITUTIONAL CONVENTION COMMISSION

FOURTH REPORT

OF THE

COMMITTEE ON THE EXECUTIVE DEPARTMENT

July 12, 1966

RE: EXECUTIVE POWER, QUALIFICATIONS AND ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR; MESSAGES TO THE GENERAL ASSEMBLY, CONVENING THE GENERAL ASSEMBLY, EXECUTIVE CLEMENCY.

INTRODUCTION.

This report consists of a recommended draft of some of the sections of the executive article. The draft sections are topically arranged and accompanied by comments.

I. Executive Power, Qualifications and Election of Governor and Lieutenant Governor.

Section \_\_\_\_\_. Executive Power. The executive power of the State is vested in the governor.

COMMENT:

(i) Existing provision: Art. 2, Sec. 1.

(ii) This traditional language designates the governor as head of the executive branch of government.

Section \_\_\_\_\_. Qualifications of Governor.  
The governor shall be at least thirty years of age and shall have been a registered voter in the State at least two years immediately preceding his election.





*No person who has been elected governor for two full consecutive terms shall be eligible to hold that office until one full term has intervened.*

COMMENT:

(i) Existing provisions: Art. 2, Secs. 1, 5.

(ii) The content of this section was approved by the Commission at its April 18, 1966 meeting and may be found in the First Report of the Committee on the Executive Department (as revised).

(iii) The language used makes clear that an individual who has served two popularly elected terms as governor is ineligible for that office for a "full term" of four years.

*Section \_\_\_\_\_. Lieutenant Governor. The lieutenant governor shall have the same qualifications as the governor and serve for the same term. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor.*

COMMENT:

(i) Existing provision: None.

(ii) The reasons for the creation of the office of lieutenant governor are set forth in the Third Report of the Committee on the Executive Department.

(iii) Since the lieutenant governor is required to have the same qualifications as the governor, a governor who has served two popularly elected terms could not immediately following his second term run for lieutenant governor. This prevents circumvention of the two-term limit through the ruse of running an ex-governor as





a candidate for lieutenant governor and then having the newly elected governor resign.

Section \_\_\_\_\_. Nomination and Election of Governor and Lieutenant Governor.

(a) The governor and lieutenant governor shall be nominated in the manner provided by law.

(b) The governor shall be elected at the general election every other even-numbered year, by direct vote of the people, for a term of four years beginning on the third Wednesday of January next following his election. The candidate receiving the highest number of votes shall be elected. In case of a tie vote, the selection of the governor shall be determined in accordance with law.

(c) Votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him in the general election. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

COMMENT:

(i) Existing Provisions: Art. 2, Secs. 1, 2, 3, 4.

(ii) Subsection (a) makes clear that the legislature will continue to have the power to determine how candidates for governor and lieutenant governor may get on the ballot in the general election.



(iii) Subsection (b) outlines the procedure for the election of the governor and lieutenant governor. The detailed provisions dealing with the delivery of the returns to the legislature, opening of returns and breaking of tie votes presently found in Art. 2, Secs. 2, 3, 4 are omitted since it is felt that they can be handled by statute.

The date that the governor takes office is the third Wednesday of January. The Committee recommends that the governor should take office on the same day as the new legislature. The present system of having the governor take office one week after the new legislature has convened is potentially harmful in that it may permit the "lame-duck" governor to have new legislation passed and signed into law during the interim.

(iv) Subsection (c) provides that in the general election the governor and lieutenant governor will run on a ticket. This is thought desirable so as to minimize the possibility of the governor and his assistant being political rivals.

## II. Messages to the General Assembly: Convening the General Assembly.

*Section \_\_\_\_\_. Messages to the General Assembly.*

*The governor may inform the General Assembly of the conditions of the State and recommend measures he considers necessary or desirable.*

### COMMENT:

(i) Existing Provision: Art. 2, Sec. 19.

(ii) Since the governor runs on a legislative platform and is accepted as an initiator of policy, it is thought desirable to





assure through the constitution that he has the right to address the General Assembly. The section gives the governor this prerogative.

Section \_\_\_\_\_. Convening the General Assembly.

The governor may, on extraordinary occasions, convene the General Assembly or Senate alone by proclamation stating the purpose for which he has convened it.

Unicameral Alternative: delete

*wouldn't a unicameral body be called the Senate?* "or Senate alone"

COMMENT:

(i) Existing Provision: Art. 2, Sec. 16.

(ii) The power of the governor to call the General Assembly into session permits a quick response to emergency situations. The power of the governor to convene the Senate alone would permit the Senate to try an official already impeached by the House without the House also convening.

III. Executive Clemency.

Section \_\_\_\_\_. Executive Clemency. The governor shall have power to grant reprieves and pardons, except in cases of impeachment, and to remit fines and forfeitures for offenses against the State. He shall periodically notify the General Assembly of the instances of the exercise of this power.



COMMENT:

(i) Existing Provision: Art. 2, Sec. 20.

(ii) The content of this section was approved by the Commission at its April 18, 1966 meeting and may be found in the First Report of the Committee on the Executive Department (as revised).

Respectfully submitted,

Committee on the Executive  
Department





C O N S T I T U T I O N A L   C O N V E N T I O N   C O M M I S S I O N

FIFTH REPORT

OF THE

COMMITTEE ON THE EXECUTIVE DEPARTMENT

September 18, 1966

RE:   SUCCESSION TO OFFICE OF GOVERNOR; VETO OF  
      BILLS BY GOVERNOR

INTRODUCTION.

This report consists of a draft of those provisions of the Executive Article which deal with succession to the office of governor and the governor's veto power. The draft is accompanied by comments.

I.   SUCCESSION.

Section \_\_\_\_\_.   Succession to Office of Governor.

(a)   Failure to Take Office.   If the governor-elect dies, resigns, or is disqualified following his election, but prior to taking office, the lieutenant governor elected with him shall succeed to the office of governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor elected with him shall serve as acting governor. If the governor-elect does not assume office within six months of the beginning of the term, the office of governor shall be vacant.



(b) Disability While in Office.

(i) If the governor notifies the lieutenant governor in writing that he will be temporarily unable to carry out the duties of his office or if the governor is disabled and thereby unable to communicate such inability to the lieutenant governor, the lieutenant governor shall serve as acting governor until the governor notifies the lieutenant governor in writing that he is able to carry out the duties of his office. If the governor does not notify the lieutenant governor in writing that he is able to carry out the duties of his office within six months from the time the lieutenant governor begins serving as acting governor, the office of governor shall be vacant.

(ii) The General Assembly may by a two-thirds vote of all members in joint session pass a declaration stating that the governor is unable to carry out the duties of his office by reason of a disability, including, but not limited to, physical or mental disability. If the General Assembly passes such a declaration, it shall be delivered to The Court of Appeals which shall have original, exclusive and final jurisdiction to determine whether the governor is unable to discharge the duties of his office



by reason of a disability. If The Court of Appeals determines that the governor is unable to discharge the duties of his office by reason of a disability, the office shall be vacant.

(c) Vacancy in Office.

(i) If for any reason a vacancy occurs in the office of governor, the lieutenant governor shall succeed to the office of governor for the unexpired term.

(ii) Governor and Lieutenant Governor. If for any reason a vacancy occurs in the office of both governor and lieutenant governor, the president of the Senate shall succeed to the office of governor for the unexpired term. If for any reason the office of lieutenant governor is vacant when the lieutenant governor is to serve as acting governor, the president of the Senate shall serve as acting governor.

(d) Status of Successor. If the lieutenant governor or the president of the Senate succeeds to the office of governor, he shall have the title, powers, duties and emoluments of the office, and if the lieutenant governor or the president of





*the Senate serves as acting governor, he shall have the powers and duties of the office. If the president of the Senate serves as acting governor, he shall continue to be the president of the Senate.*

*(e) Jurisdiction over Questions of Vacancy and Succession. The Court of Appeals shall have original, exclusive and final jurisdiction to determine the existence of a vacancy in the offices of governor and lieutenant governor and all questions concerning succession to these offices or to the powers and duties thereof.*

COMMENT:

(i) General. This section deals with the problem of gubernatorial disability and succession. The basic line of succession is that of lieutenant governor - president of the Senate. This assumes a virtually unlimited line of succession since as long as there is a Senate there will be a presiding officer.

Although Maryland has been fortunate never to have been faced with the problem in recent times, it was also thought desirable to explicitly deal with the problem of displacement of the governor in the event of disability. Experience on the federal level has clearly demonstrated the need for such provisions and there is currently a proposed amendment to the





federal Constitution being considered by the state legislatures.

See U.S. Code Cong. & Ad. News p. XXI (No. 7, July 20, 1965).

This section, like the proposed amendment to the federal Constitution, provides for a technique whereby the chief executive can voluntarily turn over the reins of government on a temporary basis, and can be displaced either temporarily or permanently.

(ii) Subsection (a)

This subsection expressly provides for succession in the event of death or incapacity of the governor-elect before he assumes office. It permits the governor-elect to qualify and assume office if his incapacity ceases within a fixed period of time.

(iii) Subsection (b)

This subsection provides for both temporary and permanent displacement of governor in the event of disability. The governor may be temporarily displaced at his written request or if his physical condition is such that he cannot object (i.e., a coma or severe illness). The governor can reassume the powers and duties of the office at any time by making a written request to that effect. If the governor is unable to reassume office within six months, the displacement becomes permanent.

The subsection also permits permanent displacement of the governor if two-thirds of the members of the General Assembly declare him to be disabled and The Court of Appeals agrees.

(iv) Subsections (c) and (d)

These subsections state the basic order of



succession. They also create a distinction between succession to the office of governor-- in which case the successor actually becomes governor, and succession to the powers and duties of the office --in which case the successor merely becomes acting governor.

The term "vacancy" has been intentionally left undefined. Clearly, death will create a vacancy, as will service by someone acting as governor for six months and removed for disability by the legislature and The Court of Appeals. Any other situation is left to legislative definition or judicial interpretation.

(v) Subsection (e)

This subsection gives The Court of Appeals exclusive jurisdiction over questions of succession and disability so as to permit resolution of these questions as quickly as possible.

II. VETO POWER.

Introductory Comment.

The veto power was first given to a governor of Maryland by the Constitution of 1867. As a preface to Article 2, Section 17 the Convention stated its intent to provide a ". . . guard against hasty or partial legislation and encroachments of the Legislative Department upon the coordinate Executive and Judiciary Departments . . . ." In deciding to write an executive veto into the Constitution the conservative democrats serving as delegates were undoubtedly swayed by their hostility toward the radical





republican legislatures that had controlled Maryland during the Civil War and by their sympathies for President Andrew Johnson in his then current difficulties with the federal Congress. Unfortunately the language used in Section 17 has presented a number of other difficulties.

A. Scope.

Article 2, Section 17 is by its terms all inclusive, stating that " . . . every Bill . . . shall, before it becomes a law," be subject to veto by the governor. However, there are two exceptions to the application of this section. First, proposals passed by three-fifths of the members of each House submitting constitutional amendments to the voters, pursuant to Article 14 of the Constitution, have been held to be not subject to the approval of the governor. Warfield v. Vandiver, 101 Md. 78 (1905). This conclusion was reached by the majority of a split court with some difficulty.

Secondly, so-called budget bills are not subject to veto. The Constitution was amended in 1916 to include an executive budget. Under the classification system, now in Article 3, Section 52, all appropriations bills are either "budget bills" or "supplementary appropriation bills." The budget bill is submitted by the governor and is subject to only limited modification by the legislature. These bills become law when passed without further action by the governor. Md. Const., Art. 3, §52(6). Supplementary appropriation bills are subject to veto. Md. Const., Art. 3, §52(8).





B. Power of Governor to Sign Bills into Law after the Legislature Adjourns.

Article 2, Section 17 provides:

"If any bill shall not be returned by the Governor within six days (Sundays excepted), after it shall be presented to him, the same shall be law in like manner as if he signed it, unless the General Assembly shall, by adjournment, prevent its return, in which case it shall not be a law." (Emphasis added.)

As a literal reading of the language would indicate, the 1867 Convention apparently intended that for a bill to become law it be presented to the governor and while the legislature was still in session either signed or left unsigned for six days. One reason for this provision was to compel the legislature to pass laws throughout the session rather than saving all important legislation until the end. Perlman, Debates of the Constitutional Convention of 1867, 188 (1923).

Governors did not attempt to sign bills into law after the legislature had adjourned until 1880. At that time several bills were presented to and signed by the governor after adjournment. See Lankford v. Somerset Co., 73 Md. 105, 127 (1890). Thereafter it became a general practice. The validity of this action was first tested in the Lankford case and upheld by a split court. Since then, post-adjournment action has been consistently held valid. See Richards Furniture v. Board, 233 Md. 249, 260-62 (1963); Robey v. Broersma, 181 Md. 325, 341 (1942).

However, an important question remains unresolved. Since Article 2, Section 17 was not intended to permit post-adjournment action by the governor, no time limit is stated within which the



governor must act. In recent years the governor has made it a practice to sign bills passed at a regular session of the legislature into law no later than May 7, but it appears that he might be able to sign them into law at some later date. The Court of Appeals specifically left this problem open in the recent Richards Furniture case. Supra note 2, at 262.

This analysis reveals two flaws in Article 2, Section 17: first, the constitution should make clear that the governor can sign bills into law after the legislature has adjourned; second, the governor should be required to either sign or veto a bill within some reasonable amount of time after adjournment.

C. The Governor's "Pocket Veto."

Ostensibly, Article 2, Section 17 narrowly restricts the governor's power to prevent a bill from becoming law by declining to sign it, since if he does not sign it within six days from the time of presentation it becomes law without his signature unless the legislature adjourns in the interim. However, in actual practice the governor can effectively prevent most bills from becoming law through calculated inaction and more importantly can foreclose or at least postpone possible override by the General Assembly.

The governor's "pocket veto" is a result of the judicial definition of "presentation." Article 41, Section 45 of the Maryland Code provides that:

"[E]very bill, when passed by the General Assembly . . . shall, as soon thereafter as practicable . . . be . . . presented





to the Governor for his approval." (Emphasis added.)

This section has been implemented by Rule 59 of the Rules of both the House and Senate which provides that every bill is to be presented to the governor within seven days after final passage unless passed during the last ten days of a regular session, in which case it need not be presented until May 1.

Since the six-day period begins to run at the time of presentation, it would seem that the statute and supporting rules would prevent a "pocket veto" of any bill passed during the first fifty-seven days of a seventy-day session. However, The Court of Appeals has decided that presentation does not occur upon the mere delivery of a bill to the governor and that the governor need not permit a bill to be presented until it is practicable for him to consider it. See Richards Furniture v. Board, 233 Md. 249, 261-62 (1963); Robey v. Broersma, 181 Md. 325, 334 (1942).

The more or less unchecked power of the governor to determine when a bill is presented has given rise to an administrative practice whereby upon receipt of a bill the governor's office refers it to the attorney general until the governor decides what action to take. Presentation then occurs on the same day that the governor either signs or vetoes the bill.

The important consequence of the governor's power to determine when a bill is presented is that it permits him to take a bill passed early in a legislative session and by postponing presentation and veto until after the legislature has adjourned





to prevent a legislative override at that legislative session. It is submitted that the governor should be required to either sign into law or veto and return bills to the legislature during the same session in which they are enacted when he has had a reasonable opportunity to consider them.

D. Item Veto.

In 1891 Section 17 was amended to give the governor an item veto over appropriation bills. The amendment reads as follows:

"[T]he governor shall have power to disapprove of any item or items of any bills making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be void unless repassed according to the rules or limitations prescribed for the passage of other bills over the executive veto." Laws of Md. 1890, ch. 194, ratified Nov. 3, 1891.

It should be recalled that under Article 3, Sections 52(6) and 52 (8) the governor has no veto power over the budget bill, so the item veto applies only to supplementary appropriation bills.

Under a literal reading of Section 17 it does not appear that the governor has power to reduce items in supplementary appropriation bills themselves, but only approve or disapprove the whole item. As a matter of practice, however, the governors have reduced the amount of items in these bills and no successful judicial attack on this action has been found. It is recommended that the constitution should make clear that the governor can reduce items in supplementary appropriation bills.



Section \_\_\_\_\_. Veto by the Governor.

(a) Scope. All bills passed by the General Assembly shall be subject to veto by the governor except budget bills and bills proposing amendments to the Constitution.

(b) Action by the Governor. Every bill subject to veto by the governor shall be presented to him within seven days after its final passage by the General Assembly and if the General Assembly is in session, it shall become law if the governor either signs or fails to veto it within ten days of presentation. If the General Assembly adjourns sine die before presentation or during such ten-day period, it shall become law if the governor either signs or fails to veto it within forty-five days of presentation.

(c) Passage over Veto. If the governor vetoes a bill, he shall return it to the General Assembly within ten days of presentation if the General Assembly is in session. Any bill that is returned by the governor shall be reconsidered by the General Assembly and if upon reconsideration, three-fifths [~~two-thirds~~] of all members of each House shall agree to pass the bill, it shall become law.

(d) Supplementary Appropriation Bills. The governor may strike out or reduce items in supplementary appropriation bills and the procedure





*in such cases shall be the same as in the case of the disapproval of an entire bill by the governor.*

COMMENT:

(i) Existing provision: Article 2, Section 17.

(ii) Scope.

Subsection (a) is designed to state the scope of the governor's veto power. Budget bills (presently provided for under Article 3, Section 52) are excepted because they originate with the governor and the legislature has only limited powers of modification. The term "budget bill" is taken from the present Article 3, Section 52. If the concept of the "budget bill" is changed, reconsideration will have to be given as to whether the governor should have the power to veto them.

Bills proposing amendments to the constitution (presently provided for under Article 14) are excepted because they can only be passed by a three-fifths vote of the legislature -- the same extraordinary vote that is presently required to override a veto.

(iii) Action by Governor.

Subsection (b) is designed to cure several of the flaws presently found in Article 2, Section 17. First, it makes clear that the governor can sign bills into law after the legislature has adjourned.

Secondly, it dispenses with any possibility of a "pocket veto." This is accomplished in the following way. All bills must be presented to the governor within seven days after





final passage. The governor no longer has the discretionary power to determine the time of presentation. If the legislature remains in session, the governor has ten days from presentation within which to sign a bill or have it take effect as law with or without his signature; if the legislature adjourns prior to presentation or during the ten-day period, the governor has forty-five days from presentation within which to sign a bill or have it take effect as law with or without his signature. It is felt that the specified time period will give the governor an ample opportunity to consider bills. No attempt was made in this section to deal with the complicated problem of the computation of time periods. (I.e., do Sundays, holidays, and the first or last day of a specified period count?) This problem was referred to the Committee on Miscellaneous Provisions so that it might consider the advisability of a general section resolving this difficulty.

(iv) Passage over Veto.

Subsection (c) is designed to assure that the legislature will have an opportunity to override the governor's veto of bills passed during the first fifty-three days of a legislative session, at that same legislative session. This is accomplished by requiring that the governor return a vetoed bill for possible override within ten days of presentation (i.e., within seventeen days after final passage) if the legislature is still in session.

The second paragraph of Article 2, Section 17 of the present Constitution which requires that a bill vetoed after the



legislature has adjourned be returned to the next session of the same legislature for possible override was not included in this draft because it was felt that it was no longer necessary. Since the governor no longer has the power to postpone presentation, the legislature can now protect its right to override by passing a bill early enough in any legislative session.

The Committee can see no clear advantage to either a "three-fifths" or "two-thirds" requirement for override. In the 1867 Convention a "two-thirds" requirement was reported out of committee but compromised on the floor to "three-fifths" to break a deadlock between the "pro" and "anti" veto delegates. Perlman, Debates of the Constitutional Convention of 1867, 187-92 (1923).

There does appear to be merit in uniformity so that all extraordinary action by the legislature requires the same vote. Under the present Constitution the legislature can pass emergency legislation by three-fifths vote (Art. 16, §2) and submit a constitutional amendment to the voters by three-fifths vote (Art. 14). Uniformity can perhaps be maintained through coordination with the Committee on the Legislative Department.

(v) Supplementary Appropriation Bills.

Subsection (d) is designed to give the governor an item veto over all appropriation bills except the budget bill. The term "supplementary appropriation bill" is taken from Article 3, Section 52 of the present Constitution. The language used makes clear that the governor can reduce or strike out items in these bills.

Respectfully submitted,

Committee on the Executive Department





# CONSTITUTIONAL CONVENTION COMMISSION

## SIXTH REPORT OF THE COMMITTEE ON THE EXECUTIVE DEPARTMENT

October 14, 1966

RE: THE EXECUTIVE ARTICLE

### INTRODUCTION.

This report is divided into two parts. The first part consists of a draft of those sections of the executive article which are being presented to the Commission for the first time or which have previously been presented but were returned for substantial revision. The second part is a complete draft of the executive article. Following the draft is a comment indicating what previous action the Commission has taken on each section.

The report is accompanied by an appendix indicating the governor's power of appointment and removal under the present law.

### I. NEW AND SUBSTANTIALLY REVISED SECTIONS.

#### *Section 5. Succession to Office of Governor.*

*(a) When the governor-elect dies, resigns, or is disqualified following his election, but prior to taking office, the lieutenant governor-elect shall succeed to the office of governor for the full term. When the governor-elect fails to assume office for any other reason, the lieutenant governor-elect shall serve as acting governor. When the governor-elect does not*





assume office within six months of the beginning of the term, the office of governor shall be vacant.

(b) When the governor notifies the lieutenant governor in writing that he will be temporarily unable to carry out the duties of his office or when the governor is disabled and thereby unable to communicate such inability to the lieutenant governor, the lieutenant governor shall serve as acting governor until the governor notifies the lieutenant governor in writing that he is able to carry out the duties of his office. If the governor does not notify the lieutenant governor in writing that he is able to carry out the duties of his office within six months from the time the lieutenant governor begins serving as acting governor, the office of governor shall be vacant.

The General Assembly may, by a two-thirds vote of all members in joint session, pass a declaration stating that the governor is unable to carry out the duties of his office by reason of a disability, including, but not limited to, physical or mental disability. The General Assembly shall be convened by the presiding officers of both houses upon the written request of the members of each house to determine whether such a declaration should be passed. When the General Assembly passes such a declaration, it shall be delivered to The Supreme Court which shall have exclusive jurisdiction to determine whether the governor is unable



to discharge the duties of his office by reason of a disability. If The Supreme Court determines that the governor is unable to discharge the duties of his office by reason of a disability, the office shall be vacant.

(c) When a vacancy occurs in the office of governor, the lieutenant governor shall succeed to the office of governor for the unexpired term. If a vacancy occurs in the office of lieutenant governor when the lieutenant governor is to succeed to the office of governor or to serve as acting governor, the president of the Senate shall succeed to the office of governor for the unexpired term or serve as acting governor. If a vacancy occurs in the office of president of the Senate when the president of the Senate is to succeed to the office of governor or to serve as acting governor, the Senate shall convene to fill the vacancy.

(d) When the lieutenant governor or the president of the Senate succeeds to the office of governor, he shall have the title, powers, duties and emoluments of the office; and when the lieutenant governor or the president of the Senate serves as acting governor, he shall have the powers and duties of the office. When the president of the Senate serves as acting governor, he shall continue to be president of the Senate; but during his service as acting governor his duties as presiding officer shall be performed by such persons as the Senate shall select.





(e) The Supreme Court shall have exclusive jurisdiction to determine the existence of a vacancy in the offices of governor and lieutenant governor and all questions arising under this section concerning the right to office or the exercise of the powers thereof.

COMMENT:

This section was approved in substance by the Commission meeting of September 18, 1966. It was returned to this Committee, however, with a directive that the following changes be made:

*many  
copy* Subsection (b). A sentence has been added which permits the General Assembly to call itself into session to determine whether the governor is disabled.

Subsection (c). A sentence has been added which convenes the Senate in the event that there is no president of the Senate when he is to succeed to the governorship or to act as governor.

Subsection (d). A phrase is added which permits the Senate to select a "stand-in" presiding officer while its president serves as acting governor.

Subsection (e). This subsection is rewritten to clarify the jurisdiction of The Supreme Court.

Section 9. Administrative Powers.

(a) The governor shall be responsible for the faithful execution of the laws.

(b) The governor may at any time require information, in writing or otherwise, from officers of any



*administrative department, office, or agency upon any subject relating to their respective offices.*

COMMENT:

This section is presented to the Commission for the first time.

*Section 11. Administrative Departments.*

*(a) All executive and administrative offices, agencies and instrumentalities of state government and their respective functions, powers and duties, shall be allocated by law among and within principal departments. Regulatory and quasi-judicial agencies may, but need not, be allocated within a principal department. The head of each principal department shall be either a single executive or a board or commission. When a board or commission is at the head of a principal department, chief administrative officers may be provided for it by law.*

*(b) The General Assembly shall by law prescribe the functions, powers and duties of the principal departments and of all other agencies of the State and may from time to time reallocate offices, agencies and instrumentalities among the principal departments, may increase, modify, diminish or change their functions, powers and duties and may assign new functions, powers and duties to them; but the governor may make such changes in the allocation of such functions, powers and duties as he*





*considers necessary for efficient administration. Those changes which affect existing law shall be set forth in executive orders which shall be submitted to the General Assembly. The General Assembly shall have sixty days of a regular session to consider these executive orders and, if specifically approved or not specifically disapproved or modified, they shall have the force of law at a date thereafter to be designated by the governor.*

COMMENT:

General. Students of public administration have long expounded the following "principles" of administrative organization:

1. Concentration of authority and responsibility in the governor.
2. Functional integration of state agencies.
3. The undesirability of boards for purely administrative work.

Under the present structure of the executive branch in Maryland, these goals are not met. As Governor Tawes indicated in a message to the General Assembly on March 22, 1966, there are 148 separate units within the administrative apparatus; separate administrative offices are concerned with the same problems; agencies and boards are in an unattached or "floating" position in the administrative apparatus and, hence, beyond the effective direction or supervision of the governor.

The Committee considered several proposals designed to constitutionally remedy the deficiencies in Maryland's administrative





structure. First, consideration was given to a constitutional limit on the number of principal administrative departments. The Model State Constitution recommends such a limit, and the constitutions of Alaska, Hawaii, Massachusetts, New Jersey and New York all establish the maximum number at twenty. This proposal was rejected. Although the Committee recognizes the need for functional integration of the State's administrative activities into as few units as practicable, it does not feel that this proposal would accomplish that goal. If the maximum number of administrative units is presently limited to a reasonable number, the limitation will prove too restrictive in the future; if the maximum number of administrative units is set at too high a figure, no purpose is served. It was, therefore, decided that the number of principal departments should be established through the lawmaking process.

Consideration was also given to a constitutional provision prohibiting policy-making boards. This provision likewise was rejected. Although the Committee accepts the validity of the proposition that departments should ordinarily be under a single administrative head, it is unwilling to make the gross assumption that all policy-making boards are undesirable -- again, this determination should be left to the lawmaking process.

This draft, while not specifically structuring the administrative organization of the State, has removed the constitutional obstacles to reorganization. The only constitutionally created offices are governor and lieutenant governor. The Committee reconsidered the question of whether the office of attorney general should be given constitutional status, as requested by the Commission at



the Easton meeting, and decided it was not necessary to explicitly mention it. There are no constitutionally created administrative departments. The Commission for Modernization of the Executive Branch of Maryland Government is thereby given a free hand to suggest changes in the administrative apparatus which it thinks desirable. Furthermore, this draft gives the governor the power to take the initiative in implementing the recommendations of the Commission for Modernization of the Executive Branch and other organizations that may be desirable in the future. He has powers to change the organization of the executive branch, but when such reorganization requires changes in law, participation of the legislature is required.

Subsection (a). The purpose of this subsection is basically to define certain terms.

Subsection (b). The subsection gives the governor broad power to initiate administrative reorganization. Such a power is recommended by the Model State Constitution and is incorporated in the Alaska Constitution. The technique has also been used in the national government over a period of years and in Pennsylvania, South Carolina and Michigan, on the basis of authorizing legislation. Governor Tawes suggested that the governor be given this power in a message to the General Assembly on March 22, 1966.

*Section 12. Appointment and Removal of Administrative Officers.*

*(a) The governor shall appoint all single executives serving as heads of principal departments and all chief administrative officers serving under boards or*





*commissions which head principal departments, except presidents of institutions of higher education.*

*These appointees shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the governor.*

*(b) The governor shall appoint the members of all boards or commissions which serve as heads of principal departments. The term of office of such members shall be prescribed by law so that the governor, upon taking office following his election, shall be able to appoint at least one-half of the members of the board or commission. Such members may be removed as prescribed by law.*

*(c) Presidents of institutions of higher education, members of regulatory and quasi-judicial agencies, and all other officers in the administrative service of the State, shall be appointed and may be removed as prescribed by law.*

COMMENT:

General. The basic philosophy of this section is that concentration of authority and responsibility in the governor is essential both to good management and to democratic control of policy. If unified executive leadership is to be achieved, the governor must be given some influence over the key members of the State's administrative apparatus. The Committee has therefore decided that the governor should have the power to appoint and remove administrative



heads of the major state departments. There is much support for this approach. The Sobeloff-Stockbridge Commission expressed as an ultimate goal of reorganization the making of all administrative agencies directly responsible to the governor, and explicitly recommended that the governor should appoint the attorney general, treasurer and comptroller. Commission on Administrative Organization, Report No. 12, pp. 25-30 (1952-53). The Model State Constitution gives the governor plenary power to appoint and remove department heads and Governor Tawes, Governor Lane and Mayor McKeldin all stated, in testimony before the Committee, that they favored giving the governor such power. In a recent study of the State Department of Public Welfare, the following statement was made:

Clearly, the State should look forward to revision of its administrative code to provide that the appointment of administrative heads of major state departments is properly and explicitly the prerogative of the Governor. Under such an arrangement, the state welfare director would serve at the pleasure of the Governor, provided only that the Governor meets an appropriate statutory obligation to appoint and retain a person professionally trained and experienced in the field of public welfare. Public Welfare Organization and Administration in Md., p. 84 (Booz, Allen & Hamilton, Inc., October 9, 1964).

The Committee, however, thought it desirable to exempt one class of top administrators from the application of this section. Because of the unique function that public colleges and universities serve, the Committee recognizes that it may be wise to give their presidents a degree of autonomy. Accordingly, this section does not deal with how they shall be selected and removed, but rather leaves this for resolution through the lawmaking process.

The Committee recognizes that there is some danger that the governor might use his broad power of removal in a partisan fashion.





The Committee feels, however, that there are sufficient safeguards. First, there is the Maryland tradition against wholesale removal of top public officials when the office of governor changes hands. Second, this section permits the legislature to establish professional qualifications that an appointee must meet. Hence, if the governor wishes to make a change, he must come up with a qualified appointee to fill the vacant office. It should also be noted that even though this section does not permit a department head to have job tenure as a department head, it does not prevent the giving of job tenure in the State's civil service. For example, if a career civil servant was offered a promotion to department head, he could by statute be assured a job in the State's civil service with full protection of pension and seniority rights. Under the present law the chief deputy comptroller and the chief deputy treasurer can be removed from office by the comptroller and treasurer, respectively, for any reason, but this does not operate to terminate their employment with the State. See Ann. Code of Md., Art. 19 § 8; Art. 95 § 7 (1957).

This section does not give the governor as much control over boards or commissions which head principal departments. The Committee recognizes that there are persuasive reasons for insulating some boards or commissions from the governor. Accordingly, the governor is given constitutional power to appoint the members of such boards, but the grounds for removal are left for resolution by law. Presumably, where a board or commission serves a function which justifies giving it a degree of autonomy, the statute would only permit removal of a member on some showing of cause. The term of office of members is also left for determination by legislation, except that the





governor must be able to appoint at least one-half of the board's or commission's members upon taking office. This assures that the governor will have at least fifty per cent of his appointees on these boards at all times.

The Committee recognizes that these constitutional provisions dealing with appointment and removal will necessitate many changes in the Maryland law. The effect of these provisions on any particular office, department or agency can be determined by reference to the chart in the appendix. It should further be noted that the approach used in this section is not novel but merely brings a degree of uniformity to what is now a quagmire of inconsistencies.

No mention is made in this section of the State's merit system. The Committee feels that the concept of the merit system has gained such wide acceptance that specific constitutional mention is unnecessary and that attempts to fix even the major details in the constitution are undesirable because they may result in rigidity.

Subsection (a). This subsection gives the governor power to appoint and remove the administrative heads of major departments. College and university presidents are exempted from this grant of power. The legislature is given power to establish job qualifications for these posts.

Subsection (b). This subsection gives the governor power to appoint the members of boards and commissions which head major departments. It should be noted that this power does not extend to appointments to advisory boards. An elected governor is assured that he will be able to appoint at least one-half of the board



members. The question of removal is left open for resolution through the lawmaking process.

Subsection (c). This is the "catch-all" section which leaves the appointment and removal of most administrative officers up to legislative determination. Presumably, many of these officers will be covered by the merit system. Appointment and removal of college and university presidents and members of regulatory and quasi-judicial agencies is explicitly made a matter for legislative determination.

## II. DRAFT OF THE EXECUTIVE ARTICLE.

*Section 1. Executive Power. The executive power of the State is vested in the governor.*

*Section 2. Qualifications of Governor. The governor shall be at least thirty years of age and shall have been a registered voter in the State at least two years immediately preceding his election. No person who has been elected governor for two full consecutive terms shall be eligible to hold that office until one full term has intervened.*

*Section 3. Lieutenant Governor. The lieutenant governor shall be at least thirty years of age and shall have been a registered voter in the State at least two years immediately preceding his election. No person who has been elected governor for two consecutive terms shall be eligible to hold the*





office of lieutenant governor until one term has intervened. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor.

Section 4. Nomination and Election of Governor and Lieutenant Governor.

(a) Candidates for governor and lieutenant governor shall be nominated as provided by law.

(b) The governor shall be elected at the general election every other even-numbered year, by direct vote of the people, for a term of four years beginning on the third Wednesday of January next following his election. The candidate receiving the highest number of votes shall be elected. In case of a tie vote, the governor shall be selected from among the candidates having received the tie vote by a majority vote of all members of the General Assembly in joint session as the first order of business after its organization.

(c) Votes cast for a candidate for governor in the general election shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.



*Section 5. Succession to Office of Governor.*

*(a) When the governor-elect dies, resigns, or is disqualified following his election, but prior to taking office, the lieutenant governor-elect shall succeed to the office of governor for the full term. When the governor-elect fails to assume office for any other reason, the lieutenant governor-elect shall serve as acting governor. When the governor-elect does not assume office within six months of the beginning of the term, the office of governor shall be vacant.*

*(b) When the governor notifies the lieutenant governor in writing that he will be temporarily unable to carry out the duties of his office or when the governor is disabled and thereby unable to communicate such inability to the lieutenant governor, the lieutenant governor shall serve as acting governor until the governor notifies the lieutenant governor in writing that he is able to carry out the duties of his office. If the governor does not notify the lieutenant governor in writing that he is able to carry out the duties of his office within six months from the time the lieutenant governor begins serving as acting governor, the office of governor shall be vacant.*

*The General Assembly may, by a two-thirds vote of all members in joint session, pass a declaration stating that the governor is unable to carry out the duties of his office by reason of a disability, including,*



but not limited to, physical or mental disability. The General Assembly shall be convened by the presiding officers of both houses upon the written request of the members of each house to determine whether such a declaration should be passed. When the General Assembly passes such a declaration, it shall be delivered to The Supreme Court which shall have exclusive jurisdiction to determine whether the governor is unable to discharge the duties of his office by reason of a disability. If The Supreme Court determines that the governor is unable to discharge the duties of his office by reason of a disability, the office shall be vacant.

(c) When a vacancy occurs in the office of governor, the lieutenant governor shall succeed to the office of governor for the unexpired term. If a vacancy occurs in the office of lieutenant governor when the lieutenant governor is to succeed to the office of governor or to serve as acting governor, the president of the Senate shall succeed to the office of governor for the unexpired term or serve as acting governor. If a vacancy occurs in the office of president of the Senate when the president of the Senate is to succeed to the office of governor or to serve as acting governor, the Senate shall convene to fill the vacancy.

(d) When the lieutenant governor or the president of the Senate succeeds to the office of governor, he shall have the title, powers, duties





and emoluments of the office; and when the lieutenant governor or the president of the Senate serves as acting governor, he shall have the powers and duties of the office. When the president of the Senate serves as acting governor, he shall continue to be president of the Senate; but during his service as acting governor his duties as presiding officer shall be performed by such persons as the Senate shall select.

(e) The Supreme Court shall have exclusive jurisdiction to determine the existence of a vacancy in the offices of governor and lieutenant governor and all questions arising under this section concerning the right to office or the exercise of the powers thereof.

Section 6. Messages to the General Assembly.

The governor shall inform the General Assembly of the conditions of the State and may recommend measures he considers necessary or desirable.

Section 7. Convening the General Assembly.

The governor may, on extraordinary occasions, convene the General Assembly or the Senate alone by proclamation, stating the purpose for which he has convened it.

Section 8. Veto by the Governor.

(a) All bills passed by the General Assembly shall be subject to veto by the governor, except budget bills and bills proposing amendments to the Constitution.



(b) Every bill subject to veto by the governor shall be presented to him within seven days after its final passage by the General Assembly; and if the General Assembly is in session, it shall become law if the governor either signs or fails to veto it within ten days of presentation. If the General Assembly adjourns sine die before presentation or during such ten-day period, it shall become law if the governor either signs or fails to veto it within forty-five days of presentation.

(c) If the governor vetoes a bill, he shall return it to the General Assembly within ten days of presentation if the General Assembly is in session. Any bill that is returned by the governor shall be reconsidered by the General Assembly; and if, upon reconsideration, three-fifths of all members of each house shall agree to pass the bill, it shall become law.

(d) The governor may strike out or reduce items in supplementary appropriation bills and the procedure in such cases shall be the same as in the case of the disapproval of an entire bill by the governor.

#### Section 9. Administrative Powers.

(a) The governor shall be responsible for the faithful execution of the laws.





(b) The governor may at any time require information, in writing or otherwise, from officers of any administrative department, office, or agency upon any subject relating to their respective offices.

Section 10. Executive Clemency. The governor shall have power to grant reprieves and pardons, except in cases of impeachment, and to remit fines and forfeitures for offenses against the State. He shall at least annually notify the General Assembly in writing of the instances of the exercise of this power.

Section 11. Administrative Departments.

(a) All executive and administrative offices, agencies and instrumentalities of state government and their respective functions, powers and duties, shall be allocated by law among and within principal departments. Regulatory and quasi-judicial agencies may, but need not, be allocated within a principal department. The head of each principal department shall be either a single executive or a board or commission. When a board or commission is at the head of a principal department, chief administrative officers may be provided for it by law.

(b) The General Assembly shall by law prescribe the functions, powers and duties of the principal departments and of all other agencies of the State and may from time to time reallocate offices, agencies and instrumentalities among the principal departments, may increase,



modify, diminish or change their functions, powers and duties and may assign new functions, powers and duties to them; but the governor may make such changes in the allocation of such functions, powers and duties as he considers necessary for efficient administration.

Those changes which affect existing law shall be set forth in executive orders which shall be submitted to the General Assembly. The General Assembly shall have sixty days of a regular session to consider these executive orders and, if specifically approved or not specifically disapproved or modified, they shall have the force of law at a date thereafter to be designated by the governor.

Section 12. Appointment and Removal of Administrative Officers.

(a) The governor shall appoint all single executives serving as heads of principal departments and all chief administrative officers serving under boards or commissions which head principal departments, except presidents of institutions of higher education. These appointees shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the governor.

(b) The governor shall appoint the members of all boards or commissions which serve as heads of principal departments. The term of office of such



members shall be prescribed by law so that the governor, upon taking office following his election, shall be able to appoint at least one-half of the members of the board or commission. Such members may be removed as prescribed by law.

(c) Presidents of institutions of higher education, members of regulatory and quasi-judicial agencies, and all other officers in the administrative service of the State, shall be appointed and may be removed as prescribed by law.

COMMENTS:

Section 1. Approved by Commission on July 17, 1966.

Section 2. Approved by Commission on July 17, 1966.

Section 3. Approved in substance by Commission on July 17, 1966. Redrafted to explicitly state qualifications for office.

Section 4. Approved in part by Commission on July 17, 1966. New sentence deals with resolution of tie votes.

Section 5. Presented to Commission September 18, 1966. Substantially revised (see part I of this report).

Section 6. Approved by Commission on July 17, 1966.  
(Minor alteration in style by Committee.)

Section 7. Approved by Commission on July 17, 1966.

Section 8. Approved by Commission on September 18, 1966.  
One question was referred back to Committee: Should the section





provide for an extension of the period of time during which a bill may be considered if the governor dies following presentation? On reconsideration, the Committee recommends that no change be made.

Section 9. New (see part I of this report).

Section 10. Approved by Commission on July 17, 1966.

Section 11. New (see part I of this report).

Section 12. New (see part I of this report).

Respectfully submitted,

Committee on the Executive Department



C O N S T I T U T I O N A L    C O N V E N T I O N    C O M M I S S I O N

COMMITTEE ON THE EXECUTIVE DEPARTMENT

[illegible]

\*Term Office

FISCAL

B'd of Public Works

Comptroller\* *plus*

Treasurer\*

State Auditor\*

Md. Tax Court\*

Dept. of Asses.

& Tax.

Dept. of Budget

& Procurement

LAW DEPARTMENT

Attorney General\*

EMPLOYMENT CONTROL

Comm'r of Personnel\*

Incentive Awards B'd

Employees' Standard

Salary B'd\*

Employees' Retirement

System\*

State Police

Retirement System\*

Teachers' Retirement

System\*



*Term Office	Gov. Appts Direc- tor  ** Chairman	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>EDUCATION</u>														
B'd of Education*			X		X				X		X			
Sup'r of Education*							X		X			X		
Advisory Council on Higher Education*		X	X			X	X							
B'd of Trustees State Colleges*			X		X		X							
State Scholarship B'd*			X		X		X							
Md. Higher Ed. Loan Corp.*		X	X		X									
B'd of Regents Univ. of Md.*		X	X		X		X							
Morgan St. College*		X	X		X		X							
St. Mary's College*			X		X		X							
Md. Ed. - Cultural TV - Comm.*	** X		X		X									
<u>HEALTH AND MENTAL HYGIENE</u>														
B'd of Health and Mental Hygiene*		X	X		X									
Dept. of Health				X				X	X					
Advisory Council on Hospital Const.*			X			X								
Advisory B'd on Hospital Licensing*			X			X								

*Term Office	
EDUCATION	
B'd of Education*	
Sup'r of Education*	
Advisory Council on Higher Education*	
B'd of Trustees State Colleges*	
State Scholarship B'd*	
Md. Higher Ed. Loan Corp.*	
B'd of Regents Univ. of Md.*	
Morgan St. College*	
St. Mary's College*	
Md. Ed. - Cultural TV - Comm.*	
HEALTH AND MENTAL HYGE	
B'd of Health and Mental Hygiene*	
Dept. of Health	
Advisory Council on Hospital Const.*	
Advisory B'd on Hospo Licensing*	

*Term Office	Gov. Appts Direc- tor	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>HEALTH AND MENTAL HYGIENE</u>														
(Continued)														
Air Pollution Control Council*			X			X		X	X		X			
Council on Medical Care*						X								
Radiation Control Advisory B'd*			X			X								
Dept. of Mental Hygiene				X				X	X					
Comm. on Physical Fitness*			X	X		X								
Md. Hospital Comm.*			X			X								
<u>PUBLIC WELFARE</u>														
B'd of Public Welfare*			X		X		X					X		
Advisory Council on Child Welfare			X			X							X	
Boys' Forestry Camp										X				
Boys' Village*			X		X				X					
Victor Cullen School*			X			X								
Md. Children's Center*			X			X				X				
Md. Training School for Boys*			X		X		X		X					
Montrose School for Girls*			X		X		X		X					





*Term Office	Gov. Appts Direc- tor  ** Chairman	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>PUBLIC WELFARE</u> (Continued)														
Comm. to Promote Employment to Handicapped			X			X								
Comm. on Interracial Problems & Re- lations*	X	X	X		X								X	
Gov. Comm. on Prob- lems of Aging*	X		X											
Comm. for Study of Migratory Labor						X								
<u>CORRECTIONAL AGENCIES</u>														
Dept. of Correction	X	X			X								X	
Md. Penitentiary							X							X
Patuxent Institution*		X	X	X	X				X					
Advisory B'd for De- fective Del.*			X			X								
Sundry Claims B'd	**X													
Dept. of Parole & Probation*		X	X		X				X		X			
<u>MILITARY DEPT. AND POLICE</u>														
Military Dept.	X	X						X						





*Term Office	Gov. Appts Direc- tor	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>MILITARY DEPT. AND POLICE</u> (Continued)														
Md. Civil Defense Agency	X												X	
Md. State Police*	X	X							X		X			
Dept. of Post- Mortem Exam.							X							
<u>STATE ROADS AND MOTOR VEHICLES</u>														
State Roads Comm.*	X		X		X								X	
Bureau of Control Survey & Maps						X								
Dept. of Motor Vehicles*	X									X	X			
Unsatis. Claim & Judg. Fund B'd*			X		X									
Md. Traffic Safety Comm.*	X		X			X								
<u>NATURAL RESOURCES</u>														
B'd of Natural Resources*	X	X	X		X				X					
Comm. of Chesapeake Bay Affairs*		X	X			X								

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*Term Office	Gov. Appts Direc- tor	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>NATURAL RESOURCES</u> (Continued)														
Dept. of Chesapeake Bay Affairs	X	X			X				X				X	
Dept. of Game and Inland Fish*	X				X		X		X		X			
Comm. to Study Migratory Birds			X			X								
Dept. of Forests and Parks*	X	X	X		X									
Md. Geological Survey*			X		X				X		X			
Bureau of Mines	X		X		X					X				
Dept. of Water Resources*	X	X	X			X								
Soil Conservation Comm.						X								
<u>PUBLIC IMPROVEMENTS</u>														
Dept. of Public Improvements	X					X			X		X			
B'd of Architectural Review						X								
Sup'r of Public Bldgs. and Grounds	X									X				





*Term Office	Gov. Appts Direc- tor	Sen- ate Con- firm Need- ed	Mem- bers Appt by Gov.	Gov. Appts Direc- tor After B'd Recom'ds	B'd is Head of Agen- cy	B'd is Advi- sory Only	B'd Appts Direc- tor	Gov. Re- moves Under Const.	Stat- ute Pro- vides for Re- moval	Re- moval Under Merit System	Re- moval for Cause by Gov.	Re- moval for Cause by B'd	Re- moval at Will by Gov.	Re- moval at Will by B'd
<u>PUBLIC PLANNING</u>														
State Plan. Dept.	X												X	
State Plan. Comm.*			X			X								
Regional Planning Council*			X										X	
Capital City Comm.*			X			X								
<u>SUPERVISION OF BUSINESS</u>														
State Athletic Comm.*			X		X									
State Aviation Comm.*			X		X		X		X		X			
Bank Comm.*	X								X		X			
Banking B'd*			X			X								
Dept. of Bldg. Savings and Loan*				X					X		X			
B'd of Bldg. Savings and Loan*		X	X			X								
Fire Prevention Comm.*			X		X				X				X	
Fire Marshal*							X		X			X		
Md. Home Improvement Comm.*			X		X		X							
State Ins. Dept.*	X				X									
Administrator of Loan Laws*	X				X				X		X			
Public Service Comm.*	X		X		X				X		X			
Md. Racing Comm.*			X		X				X		X			

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# CONSTITUTIONAL CONVENTION COMMISSION

## SEVENTH REPORT

### OF THE

### COMMITTEE ON THE EXECUTIVE DEPARTMENT

December 3, 1966

RE: THE BOARD OF PUBLIC WORKS

#### I. Present Status.

Article 12 of the Maryland Constitution creates a Board of Public Works to be composed of the governor, the comptroller and the treasurer. The Sobeloff-Stockbridge Commission described its evolution and functions as follows:

More than a century ago, in 1851, Maryland adopted a new Constitution which provided for four 'commissioners of public works' to be elected by the General Assembly, one to be chosen from each of four designated areas. The commissioners were to exercise a diligent and faithful supervision of all public works, in which the State may be interested as a stockholder or creditor, to exercise the power of the State to appoint directors in certain companies, to review toll rates established by any company and to adjust them, to promote the agriculture of the State, and 'to recommend such legislation as they shall deem necessary and requisite to promote or protect the interest of the State in public works; and perform such other duties as may be prescribed by law.'

The history of the performance of the four commissioners of public works has grown dim. However, when, in 1864, another Constitution was adopted by the State, the duties of the Commissioners were conferred upon a Board of Public Works, consisting of the Governor, the Comptroller of the Treasury, and the Treasurer, who were to serve without additional compensation. The same provision was made in the Constitution of 1867, which, with amendments, is the Constitution of today. The duties of the Board have been expanded by statute from time to time to include key responsibilities regarding issuance of bonds and the letting of contracts for public works. However, it has



never been given or has never taken upon itself detailed responsibilities for supervision of administration.  
"Commission on Administrative Organization of the State," State of Maryland, Vol. 2, Report 8, pp. 4-5 (1952).

Article 12 of the Constitution merely creates the board, designates its members, and outlines its broad functions -- the supervision of public works and the sale of the State's interest in internal improvements. However, the legislature has delegated to the board power:

1. to fix interest rates on and to sell state bonds;
2. to let contracts for the expenditure of state funds (except in connection with state highway projects);
3. to approve or disapprove leases;
4. to promulgate rules and regulations covering business administration in the various state agencies;
5. to borrow money on the credit of the State under certain circumstances;
6. to sell real or personal property of the State;
7. to transfer property from one governmental agency to another, and;
8. to approve or disapprove the creation of new jobs not in the budget.

See Ann. Code of Md. art. 78A, sections 1-16(B) (1957). This composite of powers obviously makes the board an extremely powerful body.

## II. Recommendation.

The Committee recommends that the Board of Public Works should not be a constitutionally created body. Several considerations led the Committee to this conclusion. First, it would seem that the primary justification for vesting the above itemized powers in a three-man board is that the governor,





the comptroller and treasurer can bring to the decision-making process a diversity of viewpoint. Because the comptroller is popularly elected and the treasurer is at least, in form, elected by the legislature, they are to some degree independent of the governor. Since the Commission has already decided that the comptroller and treasurer should not be constitutional officers, and that if the offices continue to exist, the appointees will serve at the pleasure of the governor, this justification largely disappears.

It should be noted, however, that taking the Board of Public Works out of the constitution does not preclude the creation of a system of checks and balances in crucial areas. Since the important powers of the Board of Public Works are statutory in origin, the legislature is free to create other checks. For example, if the legislature feels that the emergency power to use the State's credit to borrow money when the legislature is not in session should not be vested in any one officer, it can create a statutory board with representatives from both the executive and legislative departments to make this decision. Likewise, if the legislature feels that the power to determine the time of issuance, the amount and the terms of state bonds should not be vested in a single executive official, it can require by statute that the official get approval of a statutorily created board.

Second, the vast majority of decisions made by the Board of Public Works is not of major importance. The board is presently called upon to give approval to literally thousands



of small transactions involving public works and property, regarding which it cannot make informed decisions. It would appear that a board is not necessary to make decisions of this sort, and that the appropriate agency should have authority to take final action. Furthermore, board approval can act as a "bottleneck" since often there is a waiting list to get on its agenda.

Finally, the Commission for the Modernization of the Executive Branch of Maryland Government is currently at work considering a plan for the reorganization of the State's administrative structure. It is in a position to consider how each of the powers now exercised by the Board of Public Works should be allocated.

In their testimony before the Committee, Governor Tawes, Governor Lane and Mayor McKeldin all expressed the view that consideration should be given to revamping the Board of Public Works. Comptroller Goldstein expressed the view that the board should be retained in its present form.

Respectfully submitted,

Committee on the Executive Department



*Carl Smith*

CONSTITUTIONAL CONVENTION COMMISSION

EIGHTH REPORT  
OF THE  
COMMITTEE ON THE EXECUTIVE DEPARTMENT

December 3, 1966

RE: DRAFT OF THE EXECUTIVE ARTICLE

This report is a draft of the executive article incorporating the modifications made by the Commission at its October 14 meeting.

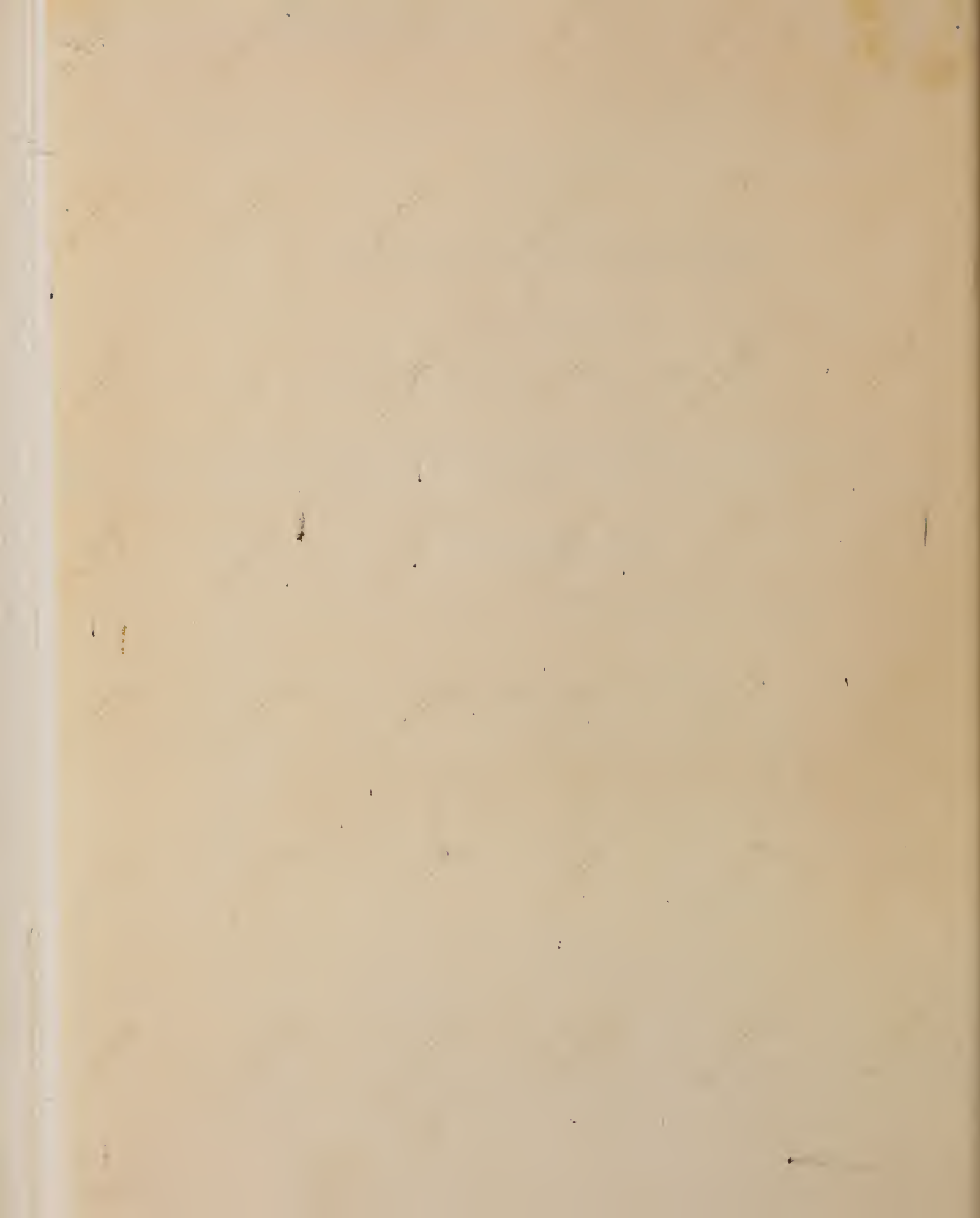
EXECUTIVE ARTICLE

Section 1. Executive Power. The executive power of the State is vested in the governor.

Section 2. Qualifications of Governor. The governor shall be at least thirty years of age and shall have been a registered voter in the State at least two years immediately preceding his election. No person who has been elected governor for two full consecutive terms shall be eligible to hold that office until one full term has intervened.

Section 3. Lieutenant Governor. The lieutenant governor shall be at least thirty years of age and shall have been a registered voter in the State at least two years immediately preceding his election. No person who has been elected governor for two consecutive terms shall be eligible to hold the office





of lieutenant governor until one term has intervened. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor.

Section 4. Nomination and Election of Governor and Lieutenant Governor.

(a) Candidates for governor and lieutenant governor shall be nominated as provided by law.

(b) The governor shall be elected at the general election every other even-numbered year, by direct vote of the people, for a term of four years beginning on the third Wednesday of January next following his election. The candidate receiving the highest number of votes shall be elected. In case of a tie vote, the governor shall be selected from among the candidates having received the tie vote by a majority vote of all members of the General Assembly in joint session as the first order of business after its organization.

(c) Votes cast for a candidate for governor in the general election shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

Section 5. Succession to Office of Governor.

(a) When the governor-elect dies, resigns, or is disqualified following his election, but prior to taking office,



When the incumbent governor re-elected shall succeed to the full term. When the governor dies or resigns or is removed from office for any other reason, the lieutenant governor shall serve as acting governor. When the governor dies or resigns or is removed from office within six months of the beginning of his term, the office of governor shall be vacant.

(b) When the governor notifies the lieutenant governor in writing that he will be temporarily unable to carry out the duties of his office or when the governor is disabled and thereby unable to communicate such inability to the lieutenant governor, the lieutenant governor shall serve as acting governor until the governor notifies the lieutenant governor in writing that he is able to carry out the duties of his office. If the governor dies or resigns or is removed from office within six months of the time the lieutenant governor begins serving as acting governor, the office of governor shall be vacant.

The General Assembly may, by a three-fifths vote of all members in joint session, pass a declaration stating that the governor is unable to carry out the duties of his office by reason of a disability, including, but not limited to, physical or mental disability. The General Assembly shall be convened by the presiding officers of both houses upon the written request of a majority of the members of each house to determine whether such a declaration should be passed. When the General Assembly passes such a declaration, it shall be delivered to The Supreme Court





which shall have exclusive jurisdiction to determine whether the governor is unable to discharge the duties of his office by reason of a disability. If The Supreme Court determines that the governor is unable to discharge the duties of his office by reason of a disability, the office shall be vacant.

(c) When a vacancy occurs in the office of governor, the lieutenant governor shall succeed to the office of governor for the unexpired term. If a vacancy occurs in the office of lieutenant governor when the lieutenant governor is to succeed to the office of governor or to serve as acting governor, the president of the Senate shall succeed to the office of governor for the unexpired term or serve as acting governor. If a vacancy exists in the office of president of the Senate when the president of the Senate is to succeed to the office of governor or to serve as acting governor, the Senate shall convene to fill the vacancy.

(d) When the lieutenant governor or the president of the Senate succeeds to the office of governor, he shall have the title, powers, duties and emoluments of the office; and when the lieutenant governor or the president of the Senate serves as acting governor, he shall have the powers and duties of the office. When the president of the Senate serves as acting governor, he shall continue to be president of the Senate; but during his service as acting governor his duties as presiding officer shall be performed by such persons as the Senate shall select.

(e) The Supreme Court shall have exclusive jurisdiction to determine the existence of a vacancy in the offices of governor



and lieutenant governor and all questions arising under this section concerning the right to office or the exercise of the powers thereof.

Section 6. Messages to the General Assembly. The governor shall inform the General Assembly of the conditions of the State and may recommend measures he considers necessary or desirable.

Section 7. Convening the General Assembly. The governor may, on extraordinary occasions, convene the General Assembly or the Senate alone by proclamation, stating the purpose for which he has convened it.

Section 8. Veto by the Governor.

(a) All bills passed by the General Assembly shall be subject to veto by the governor, except budget bills and bills proposing amendments to the Constitution.

(b) Every bill subject to veto by the governor shall be presented to him within seven days after its final passage by the General Assembly; and if the General Assembly is in session, it shall become law if the governor either signs or fails to veto it within ten days of presentation. If the General Assembly adjourns sine die before presentation or during such ten-day period, it shall become law if the governor either signs or fails to veto it within forty-five days of presentation.

(c) If the governor vetoes a bill, he shall return it to the General Assembly within ten days of presentation if the General Assembly is in session. Any bill that is returned by the governor



shall be reconsidered by the General Assembly; and if, upon reconsideration, three-fifths of all members of each house shall agree to pass the bill, it shall become law.

(d) The governor may strike out or reduce items in supplementary appropriation bills and the procedure in such cases shall be the same as in the case of the disapproval of an entire bill by the governor.

#### Section 9. Administrative Powers.

(a) The governor shall be responsible for the faithful execution of the laws.

(b) The governor may at any time require information, in writing or otherwise, from officers of any executive or administrative department, office, or agency upon any subject relating to their respective offices.

Section 10. Executive Clemency. The governor shall have power to grant reprieves and pardons, except in cases of impeachment, and to remit fines and forfeitures for offenses against the State. He shall at least annually notify the General Assembly in writing of the instances of the exercise of this power.

#### Section 11. Executive and Administrative Departments.

(a) All executive and administrative offices, agencies and instrumentalities of state government and their respective functions, powers and duties, shall be allocated to the executive and administrative departments. Legislative and judicial departments shall be separate and distinct from the executive and administrative departments.





may, but need not, be allocated within a principal department. The head of each principal department shall be either a single executive or a board or commission. When a board or commission is at the head of a principal department, chief administrative officers may be provided for it by law.

(b) The General Assembly shall by law prescribe the functions, powers and duties of the principal departments and of all other agencies of the State and may from time to time reallocate offices, agencies and instrumentalities among the principal departments, may increase, modify, diminish or change their functions, powers and duties and may assign new functions, powers and duties to them; but the governor may make such changes in the allocation of such functions, powers and duties as he considers necessary for efficient administration. Those changes which affect existing law shall be set forth in executive orders which shall be submitted to the General Assembly. The General Assembly shall have sixty days of a regular session to consider these executive orders and, if specifically approved or not specifically disapproved or modified, they shall have the force of law at a date thereafter to be designated by the governor.

Section 12. Appointment and Removal of Administrative Officers.

(a) The governor shall appoint all single executives serving as heads of principal departments and all chief administrative officers serving under boards or commissions which head principal departments, except presidents of institutions of higher



education and the state superintendent of schools. These appointees shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the governor.

(b) The governor shall appoint the members of all boards or commissions which serve as heads of principal departments except governing boards of institutions of higher learning. The term of office of such members shall be prescribed by law so that the governor, upon taking office following his election, shall be able to appoint at least one-half of the members of the board or commission. Such members may be removed as prescribed by law.

(c) All other officers in the administrative service of the State, including presidents and members of governing boards of institutions of higher education, the state superintendent of schools, and members of regulatory and quasi-judicial agencies, shall be appointed and may be removed as prescribed by law.

Respectfully submitted,

Committee on the Executive Department





Meeting of Committee on Executive Department  
with Governor J. Millard Tawes ... February 24,  
1966, ... Baltimore, Maryland.



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3 CONSTITUTIONAL CONVENTION COMMISSION  
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8 Meeting of Committee on Executive  
9 Department with Governor J. Millard Tawes  
10 was held on Thursday, February 24, 1966, at  
11 9:30 o'clock a.m., Eastern Standard Time,  
12 at Room 801, State Office Building, Baltimore,  
13 Maryland.  
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20 Reported by:  
21 M. Wasserman



1     COMMITTEE MEMBERS PRESENT:

2                     Honorable E. Dale Adkins, Jr.,  
3                             Chairman

4                     Calhoun Bond, Esquire  
5                     Mrs. Elsbeth Levy Bothe  
6                     Charles Mindel, Esquire  
7                     Mr. E. Phillip Sayre  
8                     Honorable William Preston Lane, Jr.  
9                     Mr. Garrett Power  
10                    Ernest N. Cory, Jr., Esquire

11     ALSO PRESENT:

12                    H. Vernon Eney, Esquire,  
13                             Commission Chairman

14                    John C. Brooks, Esquire,  
15                             Executive Director of the Commission

16                    Mrs. Maurice P. Freedlander  
17                    Edward T. Miller, Esquire  
18                    Dr. Harry Bard  
19                    Mr. L. Mercer Smith

20                    -----

21                    MR. ENEY: Ladies and Gentlemen, Governor  
Tawes has another engagement at 10:30, so I would like to  
move forward.

As you know from the announcements which have  
been made, this is a public meeting of the Committee on  
Executive Department of the Constitutional Convention Com-





1 mission. The purpose of this particular meeting is to  
2 obtain the views of Governor Tawes, Mayor McKeldin, former  
3 Governor of Maryland, and former Governor Lane with res-  
4 spect to the provisions of the Constitution of Maryland  
5 pertaining particularly to the Executive Department of  
6 the State.

7 The Committee is headed by former Judge E. Dale  
8 Adkins of Salisbury as Chairman, and he will preside at  
9 this meeting. Judge Adkins.

10 JUDGE ADKINS: Thank you. Governor, we appre-  
11 ciate your taking time from your busy schedule to be with  
12 us to give us some guidance.

13 We would be happy if you have a statement to  
14 make to let you just make the statement in your own way,  
15 and then we would like to have the right to ask you a few  
16 questions.

17 GOVERNOR TAWES: Judge, I have no prepared  
18 statement except to say that I am delighted to be here  
19 and appreciated the invitation to come to pass on to you  
20 any views that I might have in answer to any questions  
21 that the Committee here might have to present to me.



1 JUDGE ADKINS: Fine. Well, we have provided  
2 you with a list of questions of matters that are under  
3 consideration by our Committee, and I think we would be  
4 happy to have you comment on any or all of those questions  
5 that you feel you would like to comment on. We are, for  
6 example, interested in whether or not you feel that the  
7 two-term limitation should be continued.

8 GOVERNOR TAWES: Yes. Well, my answer to that  
9 would be Yes. I think the two consecutive term limita-  
10 tion should be continued. I think four years is too lit-  
11 tle, too short a time for a governor to properly put  
12 through his entire program that he anticipates putting  
13 through when he assumes office.

14 Many states throughout the nation have two-year  
15 terms with no limit to the number of terms a governor may  
16 succeed himself. Many of them have a limit of one four-  
17 year term and in discussion these limitations of one four-  
18 year term with governors throughout the South, particularly  
19 where this exists, they feel that four years is just too  
20 short a time.

21 Now, in Texas, Governor Connolly had a con-





1       stitutional amendment on the ballot in November increasing  
2       the two-year term down there to a four-year term, but it  
3       was defeated by the people. So I would say the two conse-  
4       cutive terms should be continued.

5               JUDGE ADKINS: You would not favor going to  
6       three consecutive terms or removing the limitation on the  
7       number of terms?

8               GOVERNOR TAWES: No, I think eight years --

9               JUDGE ADKINS: Eight years is long enough?

10              GOVERNOR TAWES: -- for any governor is suf-  
11       ficient time to complete any program that he wishes to  
12       leave as a memorial or as a remembrance of his administra-  
13       tion.

14              JUDGE ADKINS: All right, sir. Another of the  
15       major problems we are concerned with is the extent to  
16       which the other two Statewide elected officers -- well,  
17       whether or not they should be continued to be elected, or  
18       whether you feel that they should, either of them, be  
19       appointed.

20              GOVERNOR TAWES: You are referring to the Comp-  
21       troller and the Attorney General?



1 JUDGE ADKINS: Yes, sir. Is there any reason  
2 to have them appointed?

3 GOVERNOR TAWES: Well, I would say that the  
4 Governor should appoint the Comptroller and the Attorney  
5 General. Now, these two officials are pretty close to the  
6 Administration headed by the Governor.

7 For instance, the Comptroller is his finance  
8 officer, the chief fiscal officer of the State, and operat-  
9 ing under a \$875 million budget, I think the Governor, who  
10 is responsible for the budgetary program and the spending  
11 program of the State, should have a Comptroller with whom  
12 he can work very closely without any fear of reprisal.  
13 The Comptroller, if he is elected, naturally, he feels  
14 that he is responsible to the people, the people that  
15 elected him. I would say that the Comptroller, by all  
16 means, should be appointed by the Governor.

17 The Attorney General, I don't have the same  
18 reservation as I would have for the office of Comptroller.

19 JUDGE ADKINS: Do I understand, then, that you  
20 are suggesting that the Attorney General perhaps could  
21 continue to be elected as he now is?



1 GOVERNOR TAWES: Yes.

2 JUDGE ADKINS: Well, what would be your views  
3 relative to the State Treasurer, do you feel that is a  
4 cumbersome --

5 GOVERNOR TAWES: I think the State Treasurer  
6 should be appointed by the Governor, maybe with the advice  
7 and consent of the Senate.

8 JUDGE ADKINS: But not like it now is, by the  
9 Legislature in combined session?

10 GOVERNOR TAWES: Not the Legislature.

11 JUDGE ADKINS: All right, sir. I think one of  
12 the major problems that is going to concern us, Governor  
13 Tawes, is the extent to which we will go in recommending  
14 what we on the Committee are calling a strong type execu-  
15 tive. By that we don't mean any single individual, but  
16 we mean the concentration of power in the hands of the  
17 Governor as opposed to having it disbursed to boards and as  
18 it now is. Do you have any feeling that the office of  
19 Governor would be improved if more power were vested in  
20 the Governor as opposed to having it disbursed through  
21 boards, as it presently is?





1           GOVERNOR TAWES: Definitely, I think it would  
2 be more effective if more power was placed in the hands  
3 of the executive.

4           JUDGE ADKINS: Would you, for example, favor  
5 having such jobs as the Superintendent of Schools, the  
6 Superintendent of Forests and Parks directly responsible  
7 to the Chief Executive instead of responsible to a par-  
8 ticular board as they now are?

9           GOVERNOR TAWES: Yes, I would. For instance,  
10 now, the Executive Director of Forests and Parks is direct-  
11 ly responsible to the Governor, the Governor appoints him.

12           Now, that law was changed just two or three  
13 years ago.

14           JUDGE ADKINS: It was changed?

15           GOVERNOR TAWES: Yes.

16           JUDGE ADKINS: Do you feel that there is any  
17 impediment to your proper carrying out of your programs  
18 in having to work with boards which have staggered terms,  
19 as, for example, the Board of Education?

20           GOVERNOR TAWES: No, there hasn't been any  
21 real problem in that area, in that particular area.



1           Where you get your problems is where a board  
2           had the power of establishing policies and so on, a board,  
3           and then you have a director of the organization, and that  
4           is being changed gradually.

5           For instance, in the Department of Correction,  
6           formerly the Commission of Correction, had the power to  
7           establish policy and had great powers, and the law was  
8           changed not long ago, and it is an advisory board, strictly  
9           an advisory board now with the Commissioner of Correction  
10          as the acting head of the department, of the operations in  
11          our penal institutions, and that is gradually being done,  
12          and I think it should be more widespread.

13          When you move into these areas, you get  
14          violent opposition to changing the area. Calhoun Bond is  
15          looking at me, but you get violent opposition to changing  
16          it from a policymaking board to an advisory board, and the  
17          executive is handicapped to some extent in administering the  
18          responsibilities of his office in those particular areas  
19          when that particular situation exists.

20               JUDGE ADKINS: You feel then that more boards  
21               should be advisory?





1 GOVERNOR TAWES: More advisory rather than  
2 policymaking.

3 JUDGE ADKINS: Rather than policymaking.

4 GOVERNOR TAWES: Yes, it certainly does handi-  
5 cap the executive.

6 JUDGE ADKINS: And that the personnel respon-  
7 sible to the board would then be responsible directly to  
8 the Chief Executive rather than responsible to the board  
9 itself?

10 GOVERNOR TAWES: That's right, to the Executive  
11 Director.

12 JUDGE ADKINS: Are there any other areas in  
13 the State Government of that similar nature on which you  
14 would care to comment?

15 GOVERNOR TAWES: No, not offhand.

16 JUDGE ADKINS: Any specific departments?

17 GOVERNOR TAWES: Not offhand, no. I didn't --  
18 as a matter of fact, Judge, I was handed some questions  
19 that you were going to ask, and I only came prepared to  
20 answer the questions, to give my views on the questions,  
21 and you are departing from that, so, consequently --



1 JUDGE ADKINS: Well, I apologize.

2 GOVERNOR TAWES: -- I am not prepared to go  
3 into a long dissertation on these other areas.

4 JUDGE ADKINS: All right.

5 GOVERNOR TAWES: I could, but it would take a  
6 lot of time.

7 JUDGE ADKINS: Well, suppose we then limit  
8 ourselves strictly to these questions, and maybe that will  
9 be a little more orderly.

10 The second question on our list here, should  
11 the Constitution provide for a method of succession to  
12 the governorship in the event of physical or mental in-  
13 capacity of the Chief Executive?

14 GOVERNOR TAWES: Oh, yes, definitely, and we  
15 do have a method of succession now. As you know, it is  
16 the Governor, the President of the Senate, the Speaker of  
17 the House, the State Treasurer, Comptroller and so on down  
18 the line, but definitely I think if the Governor becomes  
19 incapacitated, that constitutes another problem.

20 When the Governor leaves the country -- when  
21 the Governor leaves the State, rather, and the Governor is



1 very ill, there is no provision in the Constitution pro-  
2 vided for anyone to carry on.

3 The way we carry on, I leave my -- I take my  
4 top executive assistant, and he carries on while I am ab-  
5 sent, and Edmund C. Mester on my staff, he has the author-  
6 ity to carry on, but there should be someone, maybe a  
7 lieutenant governor, or someone to carry on when the  
8 Governor leaves the State.

9 Now, I go to Europe with Dr. Elkins occasion-  
10 ally to our overseas college, and if a very, very acute  
11 emergency arose, they would have to call me in Europe,  
12 locate me. I have to let them know where I am all the time,  
13 how they can reach me. It is difficult, it is a little  
14 bit of a trying situation when you are away for six or  
15 eight days, and you are out of the country. I mean, I think  
16 that loophole should be closed so that when the Governor  
17 leaves the State even, that there should be someone to  
18 assume the responsibilities of the office.

19 JUDGE ADKINS: Would you assign him any con-  
20 stitutional duties other than succeeding to the governor-  
21 ship when he became incapacitated?





1           GOVERNOR TAWES: No, I don't believe he should  
2 be given the same powers as the Governor has. No, I think,  
3 though, that he should be able to sit in on the various  
4 meetings and make minor policy decisions in the absence of  
5 the Governor and so on, and then I think someone of that  
6 nature would be -- we are living now in a State with over  
7 3½ million people and the demands on the Governor are great  
8 to attend functions all over the State. Well, I have to  
9 pick someone wherever I can, I don't have an assistant  
10 governor, so to speak, a lieutenant governor, to send to  
11 represent me at various dinners and functions, and so on,  
12 and the invitations run anywhere from fifteen to twenty-  
13 five a day, and we try to find different individuals, maybe  
14 the Attorney General, maybe the Comptroller, maybe the  
15 President of the Senate, or the Speaker of the House, we  
16 call on them and ask them if they will represent the  
17 Governor at some function where we think representation of  
18 the Executive should be, so that's the way we operate now,  
19 but then there should be some tightening up of that loose  
20 policy.

21           MR. SAYRE: Governor, on the succession, if



1 you had a lieutenant governor, would you have him like the  
2 Vice-President is with the President on the same ticket,  
3 or would he be independent; how would you have a lieutenant  
4 governor?

5 GOVERNOR TAWES: Well, you know many states  
6 have a lieutenant governor, and many, many states through-  
7 out the nation. They are elected, and they are elected  
8 by the people. It all depends on what the system is.

9 In Maryland, we in our political campaigns,  
10 we have what we refer to as tickets headed by the Governor,  
11 or the United States Senator as the case may be.

12 MR. SAYRE: Well, wouldn't the ticket --

13 GOVERNOR TAWES: The chances are that that  
14 particular position would become a part of a ticket of a  
15 group of people running together.

16 JUDGE ADKINS: At any time any of the other  
17 members of the Committee want to interject questions, please  
18 do so, I don't want this to be a one-man performance here.

19 Governor, the next question that we have asked  
20 you to consider is whether you believe that the election  
21 of State officials should be moved to odd-numbered years





1 when no Federal officials are elected.

2 GOVERNOR TAWES: No, I would not recommend  
3 that.

4 JUDGE ADKINS: You would see no reason to  
5 change?

6 GOVERNOR TAWES: No, I see no reason to change.

7 JUDGE ADKINS: Should the Governor take office  
8 sooner than the fourth Wednesday in January so that he  
9 can assume responsibility for budget preparation for the  
10 next legislative session?

11 GOVERNOR TAWES: There is absolutely no need  
12 for that. I would recommend that the Governor take office  
13 in January as the Constitution now provides.

14 There may be some feeling that if a governor  
15 takes office sooner, he would have more time to present  
16 his budget, and prepare his budget, but Governor Lane, I  
17 think, will understand that when a governor is going out  
18 of office and a new governor is coming in, the retiring  
19 governor has worked on the budget up to that time. The  
20 budget making starts in July of each year.

21 Now, when we know that there is a new Governor



1 to take office, the next day I shall call him and tell  
2 him, Now, the budget has been moving up to this point,  
3 but from now on, you are the newly elected Governor, the  
4 budget process is yours, and he will take over as I did  
5 in 1958, and there is no need.

6 I would certainly recommend that the inaugura-  
7 tion of the Governor should not be changed. I don't see  
8 any need for it, no need of it.

9 JUDGE ADKINS: All right.

10 MR. ENEY: Judge Adkins, could we go back to  
11 the question of the lieutenant governor a moment?

12 JUDGE ADKINS: Sure.

13 MR. ENEY: Governor Tawes, I think the ques-  
14 tion that Mr. Sayre was asking was whether the Constitution  
15 should require, in other words, make it a must that the  
16 lieutenant governor and the Governor be of the same party  
17 and be elected together rather than merely run on the same  
18 ticket.

19 GOVERNOR TAWES: Well, I don't think that is  
20 always the case in other states. I have known of governors  
21 being of one political party and the lieutenant governor



1 another.

2 MR. ENEY: Well, do you think that would de-  
3 sirable here if you had a lieutenant governor act for the  
4 Governor in a temporary absence of the Governor?

5 GOVERNOR TAWES: You have it here in the City  
6 of Baltimore, you have a Republican mayor, and when he  
7 leaves town the Democratic President of the City Council  
8 takes over. I don't see any conflict there unless you are  
9 going to have someone when the Governor leaves that he is  
10 going to take over and fire everybody and establish his own  
11 government for two or three days. I don't think that would  
12 happen.

13 JUDGE ADKINS: In which event, the Governor  
14 wouldn't leave very often.

15 GOVERNOR TAWES: What?

16 JUDGE ADKINS: In which event, the Governor  
17 wouldn't leave very often.

18 GOVERNOR TAWES: Yes, right. Well now, that  
19 happened to a very good friend of mine who is the Governor  
20 of one of the States, Governor Lane, at the Southern  
21 Governors Conference, he couldn't come so some of his col-





1 leagues came instead and said, Well, the Governor has got  
2 to stay home, there is some legislation before the General  
3 Assembly and the lieutenant governor is there, and he is  
4 afraid to leave him by himself, so you get that every once  
5 in a while, but I would not limit it that the lieutenant  
6 governor must be of the same political party of the  
7 Governor, no, I don't see the need of that.

8 MR. ENEY: Would you provide in the Constitution  
9 that the lieutenant governor, if we had one, be a member  
10 of important boards, such as the Board of Public Works?

11 GOVERNOR TAWES: No; no, not the lieutenant  
12 governor, no. I think he should preside over the Senate  
13 as most lieutenant governors do.

14 JUDGE ADKINS: You would make him the President  
15 of the Senate?

16 GOVERNOR TAWES: Yes.

17 JUDGE ADKINS: Are there any other questions  
18 by any members of the Committee, while we are on that sub-  
19 ject?

20 MR. MILLER: Dale, if I might, I would like to  
21 ask the Governor to amplify it a little further. Would you



1 have any objection if it was -- is there any objection  
2 to having the Governor and lieutenant governor on one  
3 line requiring only one lever on a ballot that is already  
4 overloaded; would you have any objection to that?

5 GOVERNOR TAWES: No, I wouldn't. We have that  
6 in the Presidential election, don't we?

7 MR. MILLER: That's right.

8 GOVERNOR TAWES: No, I would have no objection  
9 to it.

10 MR. MILLER: And it would assure, would it not,  
11 a better team than if they were picked at random?

12 GOVERNOR TAWES: Maybe so. I would have no  
13 objection just so the office of lieutenant governor was  
14 established so as to relieve some of the rather difficult  
15 assignments the Governor is called upon from time to time  
16 to fulfill, and at the same time, the lieutenant governor  
17 could be very, very valuable, I think, in the State now.  
18 Under circumstances fifteen or twenty years ago, maybe we  
19 didn't need it.

20 I circulated a questionnaire on one occasion  
21 on this question of lieutenant governor. This was probably





1 about ten years ago, and the answers were about evenly  
2 divided, and the Legislature tried to put through a bill,  
3 and it was defeated in the Legislature.

4 Now, you see, we can talk about these things,  
5 but it must be, all these things must be approved.

6 JUDGE ADKINS: Doctor.

7 DR. BARD: Under the Constitution of 1864,  
8 Governor, we did have a lieutenant governor, but that  
9 didn't last very long, as you know, it was just three years,  
10 so that our experiences in Maryland with lieutenant gover-  
11 nors were sort of tied in with the Constitution which it-  
12 self did not last too long. That may be a problem in re-  
13 creating it, although it has been so long ago that I doubt  
14 if the problem would be there.

15 JUDGE ADKINS: Well, assuming there are no  
16 further questions on that subject, I have --

17 MR. ENEY: May we go back and ask one question  
18 about a first subject that was mentioned?

19 JUDGE ADKINS: Sure.

20 MR. ENEY: You commented, Governor, that you  
21 would have the Governor appoint both the Comptroller of



1 the State and the Treasurer. Would you change, then, the  
2 composition of the Board of Public Works, or would you  
3 leave it with the Governor, the Comptroller and the  
4 Treasurer?

5 GOVERNOR TAWES: Well, I think the Board of Public  
6 Works of the State now should be reorganized, and I hope  
7 the Constitution might provide for that.

8 MR. ENEY: How would you reorganize it?

9 GOVERNOR TAWES: Well, we are now being bur-  
10 dened with so many trivial matters that come before the  
11 Board. The membership of the Board could well be established  
12 with a three-member Board. I think maybe that the legis-  
13 lative branch of the government should be represented on  
14 the Board of Public Works as a minority member, and then I  
15 think either the State Treasurer, or the State Comptroller,  
16 or the Attorney General might be the third member; I am  
17 not sold on which of the three, and then the responsibilities  
18 of the Board of Public Works, I think, have reached a time  
19 now -- for instance, the Board of Public Works met last  
20 Friday, a week ago tomorrow, we started at 10 o'clock in  
21 the morning, and we didn't finish the work of the Board



1     until 4 o'clock in the afternoon, and then all of the busi-  
2     ness had not been transacted, and that's a long time for  
3     the Board of Public Works to meet. We are thinking now  
4     of having two meetings a month, but I remember back in the  
5     early Forties and the early Fifties a Board of Public  
6     Works meeting lasted maybe an hour, an hour and a half,  
7     or two hours, but six hours it requires now to dispose of  
8     the work of the Board of Public Works, and a lot of it is  
9     trivial matters that should not come before the Board of  
10    Public Works. I don't know, I don't have a concrete plan  
11    to submit to you, I could do it, but I didn't come with  
12    any concrete plan, but my experience on the Board of Pub-  
13    lic Works, I have been on the Board since 1938 with an  
14    exception of maybe about three and a half years -- 1939,  
15    I have been a member of the Board of Public Works, and  
16    that experience leads me to say that there should be some  
17    reorganization of the Board of Public Works.

18           JUDGE ADKINS: You do feel that --

19           GOVERNOR TAWES: Now, I do not have a concrete  
20    plan to propose at this time. I am just saying it needs  
21    reorganizing.





1 JUDGE ADKINS: You do feel there is reason  
2 to have a Board of Public Works?

3 GOVERNOR TAWES: Oh, yes.

4 JUDGE ADKINS: As a coordinating body.

5 GOVERNOR TAWES: Yes, I do.

6 JUDGE ADKINS: Well, I think we would like to  
7 ask, if it is within my right to do so, if you would be  
8 good enough to give us any suggestions after this.

9 GOVERNOR TAWES: I would be glad to do it.

10 JUDGE ADKINS: In writing or any other way you  
11 care to do it. I think we would like very much to have  
12 the benefit of your judgment in that field.

13 GOVERNOR TAWES: I might say at this point, and  
14 I have asked the people, I have been discussing this mat-  
15 ter with a few of our states in the nation which have been  
16 having studies made on the subject of the reorganization  
17 of the Executive Department, and some time ago we initiated  
18 an idea of that, and we have been working on it, and as  
19 a matter of fact, they are going to, because we don't want  
20 the reorganization of the Executive Department to get con-  
21 fused with your Commission here on the writing, and I have



1 asked them to confer with you. The Commission hasn't been  
2 appointed yet. We are getting the groundwork laid for it.

3 The Executive Department should be, I think,  
4 reorganized. We just received a report from one of the  
5 states, a heavy report, and we went over it just a few days  
6 ago, and I think some of the states are beginning to realize  
7 that with the modern techniques, the data processing and  
8 all of these things that are coming into being, that you  
9 need some revamping of the organizational structure of the  
10 Executive Department in order to pursue these new problems  
11 effectively.

12 JUDGE ADKINS: This is a matter that could be  
13 done probably by legislation without the necessity of con-  
14 stitutional --

15 GOVERNOR TAWES: Yes, I think most of it could  
16 be by executive and by legislative action, but we don't  
17 want to get into conflict with your work here.

18 MR. SAYRE: Governor, to what extent should  
19 the Governor have the power to reorganize, and what would  
20 you suggest the Legislature have reserved to it under the  
21 Constitution for reorganization?





1 GOVERNOR TAWES: I don't believe I understand  
2 your question.

3 MR. SAYRE: Well, let's say that you decided to  
4 reduce all activities in the executive branch to fifteen  
5 departments or agencies, let's just say. Do you believe  
6 you should have that authority to institute this reorganiza-  
7 tion, and what limitations should the legislative branch  
8 have upon your ability to do this?

9 GOVERNOR TAWES: Well, I think the Legislature  
10 probably would sort of frown on that kind of widespread  
11 authority, and I wouldn't ask for that kind of authority  
12 if I were Governor. However, there are many areas of over-  
13 lapping agencies, and we are trying to cure some of those  
14 things under the Board of Natural Resources, Water Manage-  
15 ment, and things of that kind, we are trying to gradually  
16 overcome and eliminate the overlapping of responsibilities  
17 in certain areas. Now, the Legislature can do these things,  
18 but we are doing it piecemeal, a little here and a little  
19 there, and before you get one area cured, probably some-  
20 thing else breaks out that gives you trouble. In the area  
21 of Welfare, you have many facets of Welfare today, I mean



1 different areas of Welfare.

2 I have no specific recommendations on that.  
3 Calhoun Bond here is a member of the Welfare Board, but  
4 I think the Executive Department in Maryland needs study-  
5 ing, and I don't think it needs constitutional provisions  
6 to provide the new plan, I think it can be through execu-  
7 tive order and through legislative action.

8 Now, that is the reason we are going into it.  
9 I think that we should have a plan for the next Adminis-  
10 tration made by a competent study commission with expert  
11 and professional consultants studying our executive setup,  
12 and then at the next session of the General Assembly, if  
13 the new Governor wishes to inaugurate some of these pro-  
14 posals, fine, and he will have it to do. When a new  
15 governor comes in, he should be the one who I think should  
16 inaugurate a system of this kind.

17 MR. SAYRE: How broad would you think the  
18 executive order should be?

19 GOVERNOR TAWES: That all depends on our con-  
20 sultants, what the Commission and what the consultants  
21 think this should be.



1           MR. BOND: Governor Tawes, what we have been  
2 talking about on this line in the subcommittee is that  
3 the Governor should have control of the State Government.  
4 He shouldn't have a board controlling the department and  
5 have to wait six years in order to get control of the  
6 board in order to have his ideas implemented within the  
7 department. I think we agree on that.

8           There is also some discussion that various  
9 boards connected with the departments should become ad-  
10 visory and the directors become members of the Governor's  
11 cabinet, so to speak, so that the Governor would have a  
12 cabinet-type of administration with advisory boards.

13           What has been of concern to some of us is in  
14 the event of a change of administration an incoming governor  
15 would then have the power to sweep out all the top heads of  
16 his departments, and this is of some concern, and I just  
17 wonder if you have any comments on this?

18           GOVERNOR TAWES: I can't conceive of a new  
19 governor coming in and sweeping out all the department  
20 heads, and when I came into office, I evaluated the depart-  
21 ment heads, and I think we have practically every depart-





1 ment head from when I came into office with the exception  
2 of those who have retired or who have died and left a  
3 vacancy, but I followed eight years of a Republican adminis-  
4 tration, and I have not found it necessary, and I don't  
5 recall a case where I found it necessary to be unhappy  
6 about the department head.

7 MR. BOND: May I ask you another question,  
8 would you limit this power of the Governor's appointments  
9 to just the heads of the departments and let all the sub-  
10 heads and the various heads of divisions within the depart-  
11 ment have tenure and be members of the merit system?

12 GOVERNOR TAWES: Well, not all of them, I  
13 wouldn't say in every instance. I think where you have in  
14 the correctional institutions the wardens, I don't think  
15 they should be under the merit system, but I think the  
16 department head should have the right to appoint those per-  
17 sons. Maybe they could have tenure, I don't know, but I  
18 don't think they should be merit system employees. I mean  
19 I am speaking of positions of that kind, but I think the  
20 department head should have the authority to operate his  
21 department as he deems necessary, and expedient and proper.



1 MR. BOND: And you think there should be a  
2 channel from the Governor to the department head and not  
3 impeded by a board?

4 GOVERNOR TAWES: That's right. We have had  
5 two or three very good examples of that.

6 MR. BOND: Yes, sir, I know.

7 GOVERNOR TAWES: In my seven years, we have  
8 some examples of these people. These persons have even-  
9 tually left the service.

10 JUDGE ADKINS: Passing on to right down this  
11 list of prepared questions --

12 GOVERNOR TAWES: All right, I would like to do  
13 that if you don't mind, because I am running out of time.

14 JUDGE ADKINS: We have answered several of  
15 the next ones, and there are a couple of points that we  
16 do want to be sure we get your views on. Do you believe  
17 that your appointments or any portion of them should be  
18 subject to the advice and consent of the Senate?

19 GOVERNOR TAWES: No, I don't, I don't think  
20 so. I think that is a way to close the way a governor  
21 can get top efficient personnel. You have politics. I





1 know that I have had problems in getting, well, some ap-  
2 pointments through. For instance, the Baltimore City  
3 Liquor Board. We have a good Liquor Board, I think, in  
4 Baltimore City, the reports that I get are very, very good,  
5 and they are efficient and attentive to duties. I sent  
6 all three names to the Legislature for Senate confirmation.  
7 The Chairman of the Committee advised me that they are  
8 going to be knocked off. You know what that means, don't  
9 you? I had to withdraw those names.

10 I remember on one occasion, we created a new  
11 body, and two of three of the senators came up to my of-  
12 fice. I have no quarrel with the Senate of Maryland, I  
13 never have had any quarrel with the senators as a whole,  
14 but I think when the Governor is responsible for the ap-  
15 pointment of a department head to direct the department,  
16 and the department head is responsible to the Governor,  
17 that confirmation of the Senate impedes the real method  
18 of appointment.

19 JUDGE ADKINS: You would extend that even to  
20 the so-called current Green Bag appointments?

21 GOVERNOR TAWES: Most of them, yes, most of



1       them.

2               JUDGE ADKINS: In other words, you would re-  
3       move the necessity there for consent of the Senate?

4               GOVERNOR TAWES: I think there are some excep-  
5       tions, Judge, I think there are some exceptions that I  
6       would be willing to go along with, but when you are appoint-  
7       ing a head of a large department, a large agency of the  
8       State, to subject him to the will of the Senate, I don't  
9       think is right and proper in present day governmental  
10      operation and administration.

11              JUDGE ADKINS: Let me then ask this next ques-  
12      tion. Do you feel that the Chief Executive's office has  
13      sufficient powers to function as the preparer of the bud-  
14      get? Do you have all the authority --

15              GOVERNOR TAWES: Oh, yes.

16              JUDGE ADKINS: -- and functions that you need  
17      now?

18              GOVERNOR TAWES: Oh, yes.

19              JUDGE ADKINS: To prepare the State budget?

20              GOVERNOR TAWES: Oh, yes, we do.

21              JUDGE ADKINS: You would have no suggestions



1 to make as to that?

2 GOVERNOR TAWES: There are no limitations.  
3 It is the Governor's sole responsibility and there are no  
4 limitations at all.

5 The departments are requested to submit the  
6 requests for funds to operate the department for the en-  
7 suing fiscal year, and the Governor has the right to review  
8 those requests and adjust them accordingly.

9 JUDGE ADKINS: Does anybody have any questions  
10 on that subject, that's one that we discussed.

11 MR. BOND: Governor, one thing that has been  
12 concerning us, do you feel that the present way of prepar-  
13 ing the budget and having the budget of the State the  
14 Governor's budget, the best way for fiscal responsibility?  
15 I think the answer is obvious, but this is something we  
16 are concerned with.

17 GOVERNOR TAWES: Yes, I think the present bud-  
18 get is exactly the way the spending program of the State  
19 should be handled. I think it is the Governor's respon-  
20 sibility for the fiscal integrity, the fiscal stability  
21 of the State, and if he doesn't have the control over the





1 spending program, the whole system could get out of bal-  
2 ance.

3 MR. BOND: He does not in many other states,  
4 as you know.

5 GOVERNOR TAWES: Well, that's true.

6 MR. BOND: And we think, I mean I think we  
7 agree with you, but this has been of concern to us.

8 GOVERNOR TAWES: I think we have a good budget-  
9 ary system in Maryland. I think it has been shown time  
10 and time again that the State doesn't go wild on a spending  
11 spree unless the Governor permits it, and the Governor  
12 submits his budget to the General Assembly, they can't in-  
13 crease it, they can reduce it, but they can't increase it,  
14 and it has been my policy in certain areas when the Legis-  
15 lature wants to add<sup>to</sup>/the capital improvement budget, you  
16 know, certain funds which haven't been cleared through our  
17 Planning Department and do not have the approval of the  
18 Executive Department, it is generally known that we veto  
19 those items on a line-veto method. We just don't think we  
20 could let it get a hold -- we don't think we could open the  
21 door to that kind of financing.



1 MR. BOND: Governor, one other comment on the  
2 financing. There has been some suggestions made that the  
3 revenue, as far as issuing bonds for the State, that the  
4 Constitution should be liberalized on that. Do you have  
5 any comments on raising money through bond issues?

6 GOVERNOR TAWES: Money for what purposes?

7 MR. BOND: Well, for highways, bridges, schools  
8 and things like that.

9 GOVERNOR TAWES: Should be liberalized?

10 MR. BOND: Yes, sir.

11 GOVERNOR TAWES: In what way?

12 MR. BOND: Well, what I believe the present  
13 Constitution provides, Mr. Eney, you are more an expert  
14 on this one than I am, what is it, a limitation of --

15 MR. ENEY: Fifteen year provision.

16 MR. BOND: Yes, sir.

17 MR. ENEY: I think what they are talking about,  
18 Governor, is the possibility of amending the constitutional  
19 provision that limits the maturity of State bonds to fif-  
20 teen years.

21 GOVERNOR TAWES: Well, under our present system,





1       it hasn't occurred to me that there should be any change.  
2       We have had no problems. What is the problem, I mean? If  
3       there are any problems, I don't know about it. I think  
4       that fifteen years is a good period. Sometimes, the build-  
5       ings and the construction that we are borrowing the money  
6       for, the equipment doesn't last fifteen years. That is the  
7       purpose of the fifteen years, was to try to pay for the  
8       construction of a building which maybe had a life of fif-  
9       teen years, and the revenue, of course, that we receive  
10      for the interest and amortization requirements is based  
11      on a fifteen year bond program.

12               MR. SAYRE: Do you think this sort of thing  
13      should be in the Constitution?

14               GOVERNOR TAWES: Well, I don't see the need for  
15      it.

16               MR. MINDEL: Mr. Chairman, I might comment that  
17      the Subcommittee on Taxation and Finance has considered  
18      that question, and has studied it quite thoroughly, and I  
19      think that will come out of the report on taxation and  
20      finance. That very question has been considered.

21               JUDGE ADKINS: I think that is really a question



1       beyond the scope of our deliberations here.

2               MR. MINDEL: Yes, sir, we have given considera-  
3       tion to that.

4               JUDGE ADKINS: Let's pass on to the next ques-  
5       tion, Governor, and ask you if you feel that the power  
6       to grant executive clemency should be delegated?

7               GOVERNOR TAWES: No.

8               JUDGE ADKINS: You feel that should be reserved  
9       solely for personal exercise by the Governor?

10              GOVERNOR TAWES: I do.

11              JUDGE ATKINS: The next question we have here  
12       is, Should the Governor be granted the power to grant a  
13       nolle prosequi?

14              GOVERNOR TAWES: No, I think not. I can imagine  
15       the pressure a governor would be constantly having, if I  
16       understand what that means.

17              JUDGE ATKINS: I assume it means the right to  
18       tell the State's Attorney that he shall not prosecute.

19              GOVERNOR TAWES: That's what I understand it  
20       to be, yes. I would certainly be opposed to that.

21              MRS. BOTHE: You have never had occasion to



1 exercise your powers?

2 GOVERNOR TAWES: Powers of what?

3 MRS. BOTHE: Nolle pros, you have never had  
4 occasion while in office to exercise your powers?

5 GOVERNOR TAWES: No, I wouldn't want it.

6 JUDGE ADKINS: The next question --

7 GOVERNOR TAWES: I wouldn't want it. I don't  
8 think that would fall in the category of a governor's  
9 prerogatives. I mean to say, I can imagine the confusion  
10 and what a governor would be up against if he had a power  
11 to nolle pros a case in the courts of this State. You can  
12 see the confusion that is existing right now in the  
13 courts. I read in the paper this morning where a State's  
14 Attorney is resigning because of the load that has been  
15 created. No, I certainly can't see where a governor would  
16 be in favor of that requirement, that provision.

17 JUDGE ADKINS: Going on to the next question,  
18 do you feel that the power of the veto, the Governor's  
19 veto power, should be in any fashion altered?

20 GOVERNOR TAWES: I don't see any need for it.

21 JUDGE ADKINS: Are you satisfied with this





1 hangover, this year of having your veto matters come up  
2 for --

3 GOVERNOR TAWES: Consideration. Well, under  
4 our present system, after the session is over and we veto  
5 the bills that we feel are unconstitutional or for some  
6 other reason lack legal sufficiency, we are required to  
7 submit those veto messages to the General Assembly on the  
8 opening day of the next session.

9 Now, in eight years I have vetoed a lot of  
10 pieces of legislation, but I have never had one overridden  
11 yet. We consider those bills very carefully, and let me  
12 see, there was one, I think, that they put up a terrific  
13 fight on, I don't recall what, but we haven't had a veto.

14 There is another provision under the new, the  
15 seventy day session. Now, at the end of the session, any  
16 bills that are left that I veto, that is the end of them,  
17 that is the end of them, they don't go to the next session,  
18 there will be a new Legislature, a new Administration, so  
19 my veto message is final at the end of this session.

20 JUDGE ADKINS: So you see no reason to change  
21 the existing procedure?



1 GOVERNOR TAWES: No, I really don't, I really  
2 don't.

3 JUDGE ADKINS: Does the six-day period give  
4 you sufficient time to consider whether or not to veto a  
5 bill?

6 GOVERNOR TAWES: Under the present system, it  
7 does.

8 JUDGE ADKINS: Do you feel that --

9 GOVERNOR TAWES: Let me amplify that just a  
10 minute. You see, when the bill is sent to us, that's not  
11 the beginning of the six-day period. From the Legislature  
12 we send it to the Attorney General's office. Every piece  
13 of legislation is sent to the Attorney General's office  
14 for their -- for the Attorney General's office to study  
15 the legislation as to constitutionality, legal sufficiency  
16 and so on. Now, when we receive that legislation back,  
17 he may have the bill for, well, two or three days, he may  
18 have it a week, before they get around to giving it to us.  
19 Now, this six-day period doesn't begin until when that  
20 bill is returned.

21 JUDGE ATKINS: From the Attorney General's  
~~office. By that time of course, the administrative~~





1 machinery has thoroughly checked it out.

2 GOVERNOR TAWES: By that time. We start  
3 checking the bills as soon as they are passed. Just as  
4 soon as a bill passes, our office undertakes a study of  
5 the provisions and we have some idea of each piece of  
6 legislation that comes up.

7 JUDGE ADKINS: Do you feel that you should  
8 have an item veto more extensive than that which applies  
9 to appropriation bills?

10 GOVERNOR TAWES: Well now, I didn't catch that  
11 last.

12 JUDGE ADKINS: Well, to read the question the  
13 way it is phrased, should the Governor have an item veto?  
14 Should it be limited to appropriation bills?

15 GOVERNOR TAWES: Yes.

16 JUDGE ADKINS: You think it should be limited  
17 to appropriation bills?

18 GOVERNOR TAWES: Yes.

19 JUDGE ADKINS: You don't think you should have  
20 a right to veto sections of other bills?

21 GOVERNOR TAWES: No, I wouldn't go along with



1 that. I think his veto, his item veto should be limited  
2 to the appropriation bills.

3 JUDGE ADKINS: Mr. Eney.

4 MR. ENEY: Judge Adkins, I think one of the  
5 questions was whether or not the Governor should have the  
6 right to remove officials appointed by him other than for  
7 misconduct, an absolute right of removal. Would you care  
8 to comment on that?

9 GOVERNOR TAWES: Well, I don't hardly know  
10 how to comment on that. That's a problem that is one of  
11 the real problems of the Executive. We have had cases  
12 where I would have given anything in the world almost if  
13 there was a provision, if we could have, you know, dismissed  
14 the employee, the department head or the person involved.

15 I think the Governor should have more of an  
16 opportunity to discharge and to dismiss one of his appointees  
17 for more reasons than are now set forth in the law. I think  
18 you remember the various items, but it is not broad enough.

19 JUDGE ADKINS: Is there any reason why he should  
20 not have complete power to the same extent that, for  
21 example, the president of General Motors would have?



1 GOVERNOR TAWES: I would go along with that.  
2 The Governor is not going to dismiss a good employee, a  
3 man who is doing his duty and doing his job, and doing it  
4 well, and whose knowledge of the work that he has been  
5 called upon to do is excellent. He wants that kind of a  
6 department head, but, you know, you get fooled sometimes,  
7 human nature being what it is, you get fooled occasionally.  
8 Now, I have experienced that. At the time we didn't know.  
9 I think some of you around this table will understand, I  
10 mean can recall some of the problems I have had. I think  
11 the Governor should have the right to dismiss. He puts  
12 the fear in that particular individual. You call him in,  
13 you say, Now, listen here, you are not performing properly,  
14 and you have got to do this job like it should be done,  
15 and you are taking too much time off and going to Florida  
16 every winter, and you are not putting the time in that you  
17 need, and I think the Governor should have the right to  
18 put the fear in that particular individual to keep him on  
19 the job, because if he knows that he can't be dismissed  
20 for the minor infractions as you might refer to them, he  
21 would thumb his nose, so to speak, at the Governor, and he





1 will say, I am only in here for one term, anyhow, so what  
2 is the difference.

3 JUDGE ADKINS: Would you limit that to heads  
4 of departments?

5 GOVERNOR TAWES: Appointees of the Governor.

6 JUDGE ADKINS: In other words, you would prefer  
7 a provision that they simply serve at the will of the  
8 Governor?

9 GOVERNOR TAWES: That's right, at the pleasure  
10 of the Governor. We have some of those departments now.  
11 The Chairman of the State Roads Commission, the Director  
12 of Forests and Parks serve at the pleasure of the Governor.

13 Now, I think I should emphasize the fact that  
14 these cases are rare. Most of the department heads that we  
15 choose, we select, perform a job and do an excellent job,  
16 and perform well, but in a few cases when that does arise,  
17 I think the Governor should have the right to admonish the  
18 department head and tell him what the job is and what he  
19 has got to do if he is going to stay on the job.

20 MR. ENEY: Judge, with your permission, I would  
21 like to ask if any other members of the Commission who are



1 not on this particular Committee would like to ask any  
2 other questions, Mrs. Freedlander or Mr. Smith, Mr. Mil-  
3 ler, Dr. Bard?

4 JUDGE ADKINS: Are there any other questions?  
5 I think the Governor's time is probably running out on us.

6 MR. ENEY: Yes.

7 GOVERNOR TAWES: Yes, sir, I want to thank you.

8 MR. SAYRE: Governor, could I raise one more  
9 question?

10 GOVERNOR TAWES: Yes, indeed.

11 MR. SAYRE: That you don't have to answer. It  
12 has been suggested that there should be a provision on re-  
13 apportionment where the Governor would have the authority  
14 to appoint a commission that would set up the reapportion-  
15 ment system, based upon the latest census, and that you  
16 then would proclaim what their decisions were as the new  
17 apportionment system, and if they had not come up with a  
18 plan, that you would have the authority to declare your  
19 own system without going into other extensions. Do you  
20 think that would be a good authority for the Governor to  
21 have?





1 GOVERNOR TAWES: I would rather not answer  
2 that question, I would let the candidates answer that ques-  
3 tion.

4 Now, under the present reapportionment planned,  
5 the redistricting of the senatorial districts and so on, I  
6 think that the law provides that in the event this Legis-  
7 lature does not pass the redistricting provisions under  
8 the reapportionment bill that we are going to be operating  
9 under, then the Governor is required to set up the senatorial  
10 districts in the areas.

11 MR. SAYRE: Well, if the Constitution --

12 GOVERNOR TAWES: I would have no objection to  
13 doing that because you sit down with the people of the  
14 area, the Governor doesn't arbitrarily say, Now, listen,  
15 I am going to take the map and I will mark this out that  
16 way. You are going to sit down and work it out with the  
17 local people, with the local government.

18 MR. SAYRE: So that if the Constitution gave  
19 you that authority, you don't see any reason to object to  
20 that authority?

21 GOVERNOR TAWES: Not particularly, no.



1 JUDGE ADKINS: Governor, on behalf of the  
2 Committee, I would like to express our real appreciation  
3 for your taking the time to give us the experience of your  
4 knowledge.

5 GOVERNOR TAWES: Well, thank you, and, Judge,  
6 as I say, we have sort of rambled around, but I have given  
7 you the benefit of my views based on the experience I have  
8 had in the Governor's office.

9 JUDGE ADKINS: That was essentially what we  
10 hoped for.

11 GOVERNOR TAWES: We have had great changes,  
12 you know, in the State Government in the last eight or ten  
13 years with the exploding population, the increased school  
14 population, the demands on our colleges and our university.  
15 There are greater problems existing today than ever before,  
16 and I have tried to project some of my thinking to the  
17 future, not of the present, what I believe the State needs  
18 if it is going to carry on.

19 I think we have a good State. I think when  
20 we compare Maryland and the other States of the nation,  
21 we may not rank first, we may not rank second, but certainly



1 ly we are not lost in any category that I can think of,  
2 but we have tried to do what is necessary to improve the  
3 services the State gives, and these demands are going to  
4 be greater as the years come and go.

5 I would be interested to hear what Governor  
6 Lane is going to say and what Governor McKeldin is going  
7 to say.

8 JUDGE ADKINS: We would be delighted to have  
9 you stay.

10 GOVERNOR TAWES: But I don't know whether our  
11 ideas are going to coincide or not, but I have given you  
12 the benefit of the best I know.

13 MR. ENEY: Thank you very much, Governor.

14 JUDGE ADKINS: Thank you.

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3 CONSTITUTIONAL CONVENTION COMMISSION  
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8 Meeting of Committee on Executive  
9 Department with Mayor Theodore R. McKeldin  
10 was held on Thursday, February 24, 1966, at  
11 10:45 o'clock a.m., Eastern Standard Time,  
12 at Room 801, State Office Building, Baltimore,  
13 Maryland.  
14 -----  
15  
16  
17  
18  
19

20 Reported by:  
21 M. Wasserman



1     COMMITTEE MEMBERS PRESENT:

2                     Honorable E. Dale Adkins, Jr.,  
3                             Chairman

4                     Calhoun Bond, Esquire  
5                     Mrs. Elsbeth Levy Bothe  
6                     Charles Mindel, Esquire  
7                     Mr. E. Phillip Sayre  
8                     Honorable William Preston Lane, Jr.  
9                     Mr. Garrett Power  
10                    Ernest N. Cory, Jr., Esquire

11     ALSO PRESENT:

12                    H. Vernon Eney, Esquire,  
13                             Commission Chairman

14                    John C. Brooks, Esquire,  
15                             Executive Director of the Commission

16                    Mrs. Maurice P. Freedlander  
17                    Edward T. Miller, Esquire  
18                    Dr. Harry Bard

19                    -----  
20                    JUDGE ADKINS: Mr. Mayor, we appreciate very  
21                    much your taking the time from your busy schedule to be  
22                    with us. We would be happy, Mayor McKeldin, to have you  
23                    either give a statement or to answer the questions which  
24                    we have presented you with, whichever you prefer to do.

25                    MAYOR MCKELDIN: Suppose I answer. I mean, I  
26                    will do what you want me to do, of course, but I have these





1 questions that you have propounded. I have my own pre-  
2 pared answers, and if you would like to hear those and  
3 then ask me at the end of each one any other thing you want  
4 to ask me, I will be glad to give you my answer.

5 JUDGE ADKINS: I think that is an excellent  
6 way to proceed.

7 MAYOR MCKELDIN: The first question that was  
8 submitted to me is, Should the restriction limiting a  
9 governor to two consecutive terms be continued? I don't  
10 know if I could give a definite answer to that. I remem-  
11 ber when we enacted that, I talked with Governor Dewey  
12 in New York at the time. He said, Why in the world would  
13 you pass such a law as that? If you have a good man, you  
14 want to keep him, don't you? If you have a bad man, you  
15 can get rid of him. Why would you want to get rid of him  
16 at the end of two terms? Well, I said, We feel that maybe  
17 there will be a dynasty if one man stays for fifteen years  
18 or sixteen years as Governor Ritchie for fifteen years,  
19 and he will build up such an organization that it probably  
20 would be very difficult to get rid of him, even though later  
21 on he turned out not to be as good as he was in the begin-



1       ning. So my feeling is, my own opinion is that we should  
2       be limited to two terms. I think if he is a good governor  
3       he can get his program through in two terms and if he  
4       can't get it through in two terms, he is a bad governor,  
5       and we ought to get rid of him just at the end of two  
6       terms without even having any problem with him, so that's  
7       my answer, such as it is on the first question.

8               The second question, Should the Constitution  
9       provide for a method of succession to the governorship  
10      in the event of physical or mental incapacity of the  
11      Chief Executive?

12             I think it will be wise, I believe, to have a  
13      Commission of State Officials including say, the State  
14      Health Commissioner, the Commissioner of Mental Hygiene,  
15      and the Attorney General, among others, to pass on the  
16      question of a governor's capacity to continue serving,  
17      under carefully prescribed conditions. Strict safeguards  
18      should be spelled out, of course, to prevent any possible  
19      abuse of the power. Neither the Legislature nor any member  
20      of the Legislature should be involved in this Commission  
21      decision.



1           Should the election of State officials be  
2 moved to odd-numbered years when no Federal officials are  
3 elected?

4           I see no need for a change here. I think we  
5 have enough elections now.

6           Of course, it was changed once, as you remem-  
7 ber, when the Democratic party got rather worried about  
8 the election of a Republican President. We elected a  
9 Republican President, and when we did that, they went along  
10 and elected Republicans down the line. I remember in  
11 Governor Ritchie's administration, they changed that.  
12 That's why Governor Ritchie served only three years instead  
13 of four years, served fifteen years instead of sixteen  
14 years, so he wouldn't come along with the President, and  
15 in that way they would be able to elect more Democratic  
16 governors. I say that in a friendly way, Pres.

17           The next question is, Should the Governor take  
18 office sooner than the fourth Wednesday in January so that  
19 he can assume responsibility for budget preparation for  
20 the next legislative session, and my answer to that is,  
21 although there is some question to it, I think the present





1 system is entirely satisfactory because no more than you  
2 are elected Governor, you, of course, immediately begin,  
3 if you are elected in November, you immediately begin at  
4 that very minute to work on the budget. In other words,  
5 the Budget Director then confers with you and not the  
6 Governor that is going out, so you have from November  
7 until -- November, December and January to work on the  
8 budget, and that has been the policy in this State, and I  
9 see no reason, in my opinion, for changing it.

10 Should the administrative structure of the  
11 State be reorganized so as to concentrate more power in  
12 the Governor?

13 Yes. The dominant characteristic -- and the  
14 dominant deficiency -- in State government is the plural  
15 executive. Nowhere else on the American organizational  
16 scene do we see this anachronism, this atavistic relic.  
17 Virtually everywhere else in American organizations --  
18 industrial, commercial, institutional, and in most other  
19 governmental sectors -- the unequivocal rule of action,  
20 indeed the fundamental premise, of administration is the  
21 Chief Executive in both name and fact. It has long been



1 accepted as a truism that power, authority and responsibil-  
2 ity are simply special aspects of the same thing. And yet,  
3 State governments continue to operate on the same basis  
4 as their colonial antecedents, antecedents, which it must  
5 be recalled, were guided by a host of considerations alto-  
6 gether unrelated to today's problems and requirements --  
7 including distrust of gubernatorial appointees made by  
8 King George III, admixed with 18th Century notions of  
9 checks and balances.

10 The next question is, Should the Governor --

11 JUDGE ADKINS: Governor, would you mind if we  
12 asked you a few questions --

13 MAYOR MCKELDIN: Any time.

14 JUDGE ADKINS: -- on that point?

15 MAYOR MCKELDIN: Yes, of course.

16 JUDGE ADKINS: This is, of course, of consider-  
17 able interest to us.

18 MR. BOND: Governor, I am sorry, we are quite  
19 concerned about the idea of having a cabinet form of govern-  
20 ment, in other words, all heads of departments would serve  
21 at the pleasure of the Governor, and I would like to know,



1 are you in favor of having all your department heads  
2 serve at the pleasure of the Governor, be subject to ap-  
3 pointment by the Governor, removal by the Governor, and the  
4 present boards, some of which exercise executive authority,  
5 become advisory; are you in favor of that?

6 MAYOR McKELDIN: Having a cabinet appointed?

7 MR. BOND: Well, having -- in other words,  
8 the heads of all your departments would become -- would  
9 serve at your will and would be in essence your cabinet.

10 MAYOR McKELDIN: Yes, well, they are your  
11 cabinet anyhow, even if they don't serve at your will, they  
12 are still your cabinet, I mean you still confer with them,  
13 and my own feeling is that they should be subject to the  
14 will of the Governor and should serve not for any term but  
15 should serve at the will of the Governor, yes.

16 MR. BOND: And how far down the line should  
17 this go? In other words, you have your heads of your  
18 various departments, then you have your various sub-heads,  
19 your heads of your institutions. How do you feel about the  
20 Governor's right of removal and whether these people should  
21 serve at the convenience of the Governor, and how about





1 the merit system and tenure?

2 MAYOR McKELDIN: I would limit it, I think,  
3 to the head of the department. I wouldn't get below that  
4 because you get mixed up in a lot of very nasty politics  
5 which is bad for the general public and is bad for the  
6 Governor, and bad for government, and, unfortunately, you  
7 have to do it. I sometimes think it would be better not  
8 to have the Civil Service sometimes because you are hooked  
9 with it, and the particular Civil Service Commission, with  
10 them, too.

11 Should the Governor be the only popularly  
12 elected executive official? Is there a need for a lieu-  
13 tenant governor or some other assistant executive official?

14 To some extent, Maryland now has a short  
15 ballot, I believe, compared with some of the other States.  
16 However, I believe the Governor should appoint the top  
17 fiscal authorities such as the Comptroller and the Treas-  
18 urer, or their equivalents.

19 MR. SAYRE: How about the Attorney General?

20 JUDGE ADKINS: How about the Attorney General,  
21 should he be elected or appointed?



1           MAYOR McKELDIN: Should the Attorney General,  
2           Comptroller and Treasurer be appointed by the Governor is  
3           the next question.

4           The Attorney General, I believe, should con-  
5           tinue to be elected by the people. He should be free from  
6           any suspicion of being subject to the influence of the  
7           Governor when he is called upon to render opinions, but  
8           the others, I think, should be appointed by the Governor.

9           Should the Governor's appointments -- let me  
10          say this before I forget it. You didn't ask me this, but  
11          I think the Governor's salary by all means should be taken  
12          out of the Constitution. That is a terrible thing to have  
13          the Governor's salary in the Constitution.

14          JUDGE ADKINS: Do you think there should be a  
15          minimum salary provided in the Constitution so the Legis-  
16          lature could not cut off a recalcitrant governor?

17          MAYOR McKELDIN: It should be a minimum of at  
18          least \$25,000 or \$35,000 for the Governor, yes. I got  
19          4500, you remember, so did Pres, \$4500.

20          I had a boy at Washington and Lee and a  
21          at the University of Maryland. 4500, I had to



1 the country making speeches, otherwise they could not have  
2 gone to college, impossible, impossible, and I was criti-  
3 cized for that, but I had no choice. \$4500, what could I  
4 do with 4500, and the newspapers, every time you said 4500,  
5 they said, Look, you have got a yacht, a yacht with nine-  
6 teen crewmen. So what. I was on that very seldom, but even  
7 if I had it, so what, a crew of nineteen; and then you  
8 have a fifty-one room mansion. So what. My girl and boy  
9 were away at school, I was making speeches and my wife  
10 was locked up in one of those fifty-one rooms, and then you  
11 have five servants and butlers and \$20,000 for food. So  
12 what. There was nobody there to eat that food. And you  
13 have people who come in that you invite to eat all your  
14 food and drink all your liquor. I didn't have any liquor,  
15 but if I had it, they would have.

16 Should the Governor's appointments of officials  
17 be subject to the advice and consent of the Senate?

18 I don't think so, I don't think so. I think  
19 the Governor is elected, it is his responsibility, and I  
20 think the Governor ought to have the right to make the ap-  
21 pointments, and that is one of the great advantages, one





1 of the advantages of having the Police Commissioner ap-  
2 pointed by the Governor, he doesn't have to have him con-  
3 firmed.

4 JUDGE ADKINS: Would you do away with the so-  
5 called Green Bag appointments now and have them and also  
6 the local officials appointed without confirmation?

7 MAYOR McKELDIN: Yes, yes.

8 Should the heads of all administrative depart-  
9 ments serve at the will of the Governor?

10 . . I have already said that, yes.

11 Then, should the Board of Public Works be re-  
12 organized?

13 Sometimes I think it should be abolished. A  
14 board is simply a buffer, as you know, a hobbling imped-  
15 imentsometimes, but I don't guess it is possible to do it.  
16 I think it can hinder the administration of the State's  
17 business.

18 For example, I am a Republican, as you know,  
19 and I was elected and we have a Democratic Legislature,  
20 they elect, naturally, a Democratic Treasurer and, of  
21 course, the Comptroller is naturally a Democrat. We don't



1 elect anybody but a Governor every twenty years in this  
2 State who is a Republican, so the Board of Public Works  
3 consists of a Republican Governor and two Democrats. For-  
4 tunately, they have been very cooperative, because the  
5 Treasurer has been a high-type man who has not been involved  
6 in politics, which is a blessing like John Luetkemeyer, see,  
7 he wouldn't play politics, but if the Comptroller and the  
8 Treasurer get together, they could give the Governor a fit.

9 JUDGE ADKINS: May I ask a question, Mayor?

10 MAYOR McKELDIN: Yes.

11 JUDGE ADKINS: In the recommendation which you  
12 have made to the effect that the Comptroller should be ap-  
13 pointed by the Governor, is there any reason for him to  
14 continue as a member of the Board of Public Works if, in  
15 fact, we continue a Board of Public Works?

16 MAYOR McKELDIN: I wouldn't see any reason, no.  
17 He is only advisory, of course, and the Board has its ad-  
18 visors, I mean whether they are on the Board or not. Repeat  
19 it again for me.

20 JUDGE ADKINS: Well, if you make the Comptroller  
21 appointive, as you have recommended, should he then be a



1 member of the Board of Public Works? He is now, as I  
2 understand it, a member of the Board of Public Works.

3 MAYOR McKELDIN: Yes.

4 JUDGE ADKINS: If he is appointed, would you  
5 then remove him from the Board of Public Works as a voting  
6 member, assuming always that you continue a Board of Pub-  
7 lic Works?

8 MAYOR McKELDIN: Yes, I would remove him, I  
9 don't see any reason why he should be there.

10 JUDGE ADKINS: You would remove him?

11 MAYOR McKELDIN: Yes.

12 MR. ENEY: Would you continue something such  
13 as a Board of Public Works either under that name or a  
14 different name?

15 MAYOR McKELDIN: I don't know, I mean, it seems  
16 to me that the department heads could make the decisions  
17 themselves with reference to a lot of items that appear  
18 before the Board of Public Works. The Board of Public  
19 Works, its time is taken up, I guess 70 per cent, with a  
20 lot of trivia which is nothing, just nothing that should  
21 ever come before the Board of Public Works. Just like the





1 Board of Estimates, we spend hours in the Board of Estimates  
2 okaying a bill for \$1.25, \$2.87, and it is ridiculous, and  
3 a lot of that stuff appears before the Board of Public  
4 Works at times, and should not be there, but if you are  
5 going to have a Board of Public Works, if you decide that  
6 the individuals themselves are not capable of making the  
7 decisions, the department heads -- I think the department  
8 heads could really make a lot of these decisions that the  
9 Board of Public Works makes -- it might be well to have  
10 the Treasurer and the Comptroller there.

11 JUDGE ADKINS: Based on your experience, do  
12 other states have bodies comparable to the Board of Public  
13 Works?

14 MAYOR MCKELDIN: I don't know.

15 MR. ENEY: If you continue such a board, would  
16 it be desirable to have a representative of the Legislature  
17 as a member?

18 MAYOR MCKELDIN: I wouldn't think so. A man  
19 who is elected to the Legislature, if he is appointed the  
20 President of the Senate, or the Speaker of the House, he  
21 has to be done so by, of course, a greater political power



1 than the others, and he would be subjected, of course, to  
2 that political influence, and if he was on the board, he  
3 would constantly be importuned by some of the members to  
4 vote for this and vote for that because they voted for  
5 him. I think that might be bad.

6 JUDGE ADKINS: When you commented on what  
7 officials should be elected, do you feel that the present  
8 method of selecting the State Treasurer is a good one,  
9 having him elected by the Legislature rather than by  
10 either the people or appointed?

11 MAYOR McKELDIN: Well, he is really, as you  
12 know, of course, not elected primarily by the Legislature,  
13 he is appointed by the Governor, and the Governor gives  
14 the word, and that's it, I mean as a practical matter,  
15 that is it.

16 JUDGE ADKINS: This is true if the Governor  
17 is of the same party as the Legislature, but it wasn't  
18 true when you were in office.

19 MAYOR McKELDIN: Exactly, exactly, but they  
20 have done well by the Treasurer. We have had excellent  
21 Treasurers of this State, and I don't know any of them that



1 I would not be proud of, that didn't do a good job, but  
2 there is a danger, of course, that they may, but they  
3 haven't done it, and so I don't see any reason for changing  
4 it unless you have something better.

5 Should the merit system for appointments and  
6 promotions be extended to all State employees other than  
7 department heads?

8 I believe that department heads should have  
9 some leeway in the selection of key personnel, such as  
10 wardens of penal institutions and institution heads. The  
11 Merit System should be extended to include all below depart-  
12 ment heads and top sub-agency heads. I can think of no  
13 group of full-time employees who should not be entitled to  
14 the protection of the Merit System.

15 Should the Governor be given the power to alter  
16 the functions of the administrative departments to the  
17 extent necessary for efficient administration?

18 Yes. How else, of course, can he manage?

19 Minor matters, particularly so, especially  
20 with the budget, if not definitely set up by legal act.

21 Should the Governor have the power to require





1 administrative departments to furnish him with information?

2 Of course, most emphatically so.

3 The question surprises me, because I am under  
4 the impression that the Governor has such power and cer-  
5 tainly, when I was Governor, I never had any trouble ob-  
6 taining requested information from any department.

7 MR. SAYRE: Mayor.

8 MAYOR McKELDIN: Yes.

9 MR. SAYRE: On the area of your authority to  
10 reorganize the executive branch, to what extent do you  
11 think you should have the authority to, say, reshuffle the  
12 agencies and reorganize, and what limitations or authority  
13 do you think the Legislature should have in that respect,  
14 also?

15 MAYOR McKELDIN: I think I may have an answer  
16 to that. I think I may.

17 MR. SAYRE: All right.

18 MAYOR McKELDIN: If I don't, I will come back  
19 to that.

20 What powers does the Governor need to fulfill  
21 his functions as preparer of the budget?



1 My answer to that is absolutely none that he  
2 does not already have. Only his present powers, and they  
3 are completely satisfactory, and I think, ample.

4 Should the Governor have the power to delegate  
5 his powers of executive clemency? Should the Governor  
6 have the power to grant a nolle prosequi?

7 No, some years ago, the Governor was relieved  
8 of the time-consuming responsibility for the granting of  
9 paroles. This was with my approval when I was Governor.  
10 I did that. The powers of commutation and the granting  
11 of pardons should remain with the Governor.

12 Of course, the Governor consults a lot of  
13 people. He talks with the State's Attorney, he talks with  
14 the judges, he talks with a lot of people concerning that,  
15 so he really has a lot of advice before he makes his  
16 decision, and I commuted nineteen death sentences. I am  
17 opposed to capital punishment. Three of them I didn't  
18 commute, I didn't have the courage to commute.

19 I talked to the judges. I remember one judge  
20 I talked to, I said to him, I said, Judge, you didn't have  
21 this man examined by a psychiatrist, and you have one right



1 next door here in the Courthouse. He said, I know. He  
2 said, I had enough on him to hang him. I said, Thank  
3 you, Judge. It takes you two seconds to commute a death  
4 sentence like that, of course.

5 MRS. BOTHE: Mayor McKeldin, do you think the  
6 Governor should have the power to nolle prosequi?

7 MAYOR MCKELDIN: No.

8 MRS. BOTHE: Did you have occasion to exercise  
9 that power?

10 MAYOR MCKELDIN: I don't think the Governor  
11 should become involved in that.

12 MRS. BOTHE: You think it should be deleted  
13 from the Constitution?

14 MAYOR MCKELDIN: I think it should be deleted,  
15 I certainly think so.

16 Should the Governor have a veto power?

17 Yes, of course. He should be an active parti-  
18 cipant in legislation. Certainly the Governor should have  
19 a veto power.

20 Should a 3/5 vote of the Legislature be able  
21 to override a veto?





1           Yes. But I might be willing to argue for  
2 even a 2/3 vote, thereby making it less likely that the  
3 Legislature could overrule the Governor's responsibility  
4 for seeing to it that wise and necessary legislation was  
5 enacted.

6           Does the six-day period give the Governor  
7 sufficient time to consider whether or not to veto a bill?

8           I am sure that six days is certainly not suf-  
9 ficient time for studying and checking many pieces of  
10 legislation before Executive action. While I don't suppose  
11 a hard and fast rule can be laid down, ten to fourteen  
12 days is more like the time ordinarily required for the  
13 Governor to be apprised of all the facts. Why hurry the  
14 process and deny the Governor a reasonable opportunity to  
15 gain the facts?

16           The six-day period after the passage of a bill  
17 is not sufficient time for a study and check.

18           Should the Governor's pocket veto be expanded  
19 so that bills that die by veto or by being left unsigned  
20 after the Legislature adjourns need not be returned at  
21 the next session of the Legislature for possible override?



1 I believe that bills vetoed after the close  
2 of a session should be dead and not available for overrid-  
3 ing at the next session. There is nothing, of course, to  
4 prevent introduction of similar legislation early in the  
5 next session and passing it so that the Assembly will have  
6 plenty of time to override a second veto.

7 That is particularly true when there is an  
8 election and a new group comes in and they know nothing  
9 about -- the majority of them, a lot of them know nothing  
10 about what went on before, and I think they should be  
11 privileged to vote on that.

12 Should the Governor have a item veto and should  
13 it be limited to appropriation bills?

14 The answer to both the questions in my opinion  
15 is Yes.

16 While the item veto is essential to sound  
17 fiscal management in considering appropriation bills, it  
18 should not be extended to other types of legislation, of  
19 course not, to other types of legislation. It could be  
20 used in such manner as to deceive the public while destroy-  
21 ing the meaning and purpose of a law.



1 MR. ENEY: Mr. Mayor, do you think there  
2 should be an official such as a lieutenant governor who  
3 would take over not merely in the event of the physical  
4 or mental disability of the Governor, but in the absence  
5 of the Governor?

6 MAYOR McKELDIN: I don't think so. I think  
7 we have done very well without a lieutenant governor, par-  
8 ticularly if a lieutenant governor is elected as an indi-  
9 vidual rather than with a governor. If he were elected  
10 as the President and Vice-President are elected together,  
11 it wouldn't be so bad, but I am a Republican, and if I  
12 am elected Governor, you know very well a Democrat would  
13 be elected lieutenant governor because it is only a miracle  
14 that we get elected, so you would have a Democratic lieu-  
15 tenant governor and Republican governor and which I think  
16 would be a very bad thing for the State, a very bad thing.

17 MR. ENEY: Well, suppose they were tied together  
18 in the way the Presidency and Vice-Presidency are, do you  
19 think it would be desirable then?

20 MAYOR McKELDIN: I don't think it would be  
21 desirable. I think the present situation is all right, let





1 the President of the Senate take over in the event of the  
2 death of the Governor.

3 MR. ENEY: I wasn't thinking so much of death  
4 or disability but absence either from the State or from  
5 the country. There is no provision now for anyone to  
6 exercise the functions of the Governor in the event of his  
7 absence.

8 MAYOR McKELDIN: I don't think it has worked  
9 to any disadvantage up to this time. I know of no case  
10 where it has worked to a disadvantage in the absence of  
11 the Governor.

12 No matter where the Governor is, he can always  
13 be reached over the telephone, no matter where you are.

14 They called me in Tokyo when I was a Special  
15 Ambassador a few months ago.

16 MR. ENEY: You have had the experience both as  
17 Governor and as Mayor of Baltimore City, and you do have  
18 such a provision for an Acting Mayor in your absence, so  
19 the contrast might give you some particular insight. Would  
20 you care to comment further?

21 MAYOR McKELDIN: Yes. Of course, the Acting



1 Mayor has no authority. He may have authority, but nobody,  
2 I mean my department heads, for example, the department  
3 heads wouldn't pay any attention to him. I mean, there  
4 wouldn't be anything that they would do until they got in  
5 touch with the Mayor, so the man who acts as Mayor very  
6 seldom comes into the office, as a matter of fact. If  
7 you want him, you call him in his law office, or wherever  
8 he is, so he is never there, even in the absence of the  
9 Mayor. He may come in sometimes and have his picture  
10 taken, and that's all.

11 MR. BOND: He had a reception.

12 MAYOR McKELDIN: I beg your pardon?

13 MR. BOND: He had a reception.

14 MAYOR McKELDIN: He had a reception, that's  
15 when I was away, he had a reception and they had it in  
16 my office.

17 MR. SAYRE: You don't believe that succession  
18 due to death or disability would be more desirable from a  
19 Statewide elected official rather than from one like the  
20 President of the Senate?

21 MAYOR McKELDIN: It is the same thing, you see



1       it is the President of the Senate and the President of  
2       the City Council. The President of the City Council be-  
3       comes the Mayor because he is the President of the City  
4       Council and the same with the President of the Senate,  
5       because he is the President of the Senate.

6               MR. SAYRE: But he is elected only from a  
7       part of the State.

8               MAYOR McKELDIN: Yes, that's right.

9               MR. SAYRE: You don't think that's a disad-  
10      vantage?.

11              MAYOR McKELDIN: I don't think so, sometimes  
12      it is an advantage.

13              MR. ENEY: Would you provide for it in the  
14      Constitution or leave it to the Legislature to provide the  
15      method of succession?

16              MAYOR McKELDIN: If the Legislature is going  
17      to make the selection, if they are going to change the  
18      present method, I think you ought to do something first.

19              MR. BOND: Mr. Mayor, do you feel that the  
20      responsibility for the preparation of the budget should  
21      remain as it is an executive function and not with -- and





1 with no participation by the Legislature?

2 MAYOR McKELDIN: Absolutely, yes. My gracious,  
3 it would be a tremendous tragedy if that were not so in  
4 my opinion.

5 MR. SAYRE: Do you feel that, and I know this  
6 is overlapping, but do you feel that to earmark funds  
7 would provide any restrictions on your fiscal program?

8 MAYOR McKELDIN: For example?

9 JUDGE ADKINS: State Roads.

10 MR. SAYRE: State roads.

11 JUDGE ADKINS: Gasoline tax, that kind of  
12 thing.

13 MR. SAYRE: Yes.

14 MAYOR McKELDIN: I think so, I think so. You  
15 mean the gasoline tax just for roads?

16 MR. SAYRE: Yes, but suppose you had, just  
17 hypothetically, you had a program that required either  
18 additional taxes, or if you didn't have earmarked funds,  
19 you would have the additional money if there were not ear-  
20 marked funds perhaps.

21 MAYOR McKELDIN: That may be a good thought,



1 but it would have to be carefully guarded and protected.  
2 If that could be done, that would not be bad.

3 For example, we got the State to give us some  
4 money for our police out of the gasoline tax for the roads,  
5 because the State uses it, of course, for their police,  
6 and we thought we could use it for our police, and the  
7 Governor very kindly gave us some for the City Police,  
8 which is, of course, under the control of the Governor.

9 MR. ENEY: Mr. Mayor, can you come back to  
10 Mr. Sayre's earlier question as to possible reorganization  
11 of the Executive Department by the Governor; would you be  
12 in favor of the Constitution giving the Governor complete  
13 authority to reorganize the Executive Department by execu-  
14 tive order, or would you want to confer that power on the  
15 Legislature?

16 MAYOR McKELDIN: I would give it to the Governor.

17 MR. ENEY: Would you have any limitations on  
18 it as to how far he could go in abolishing departments or  
19 in merging departments?

20 MAYOR McKELDIN: Well, I think there ought to  
21 be a limit on that. I think there ought to be a limit on



1 that. He ought not to just simply be able to in between  
2 sessions abolish certain departments and transfer them to  
3 others, I think that would be a tremendous mistake.

4 JUDGE ADKINS: What would you think of having  
5 a limitation similar to the limitation of the Congress on  
6 executive orders of the President? I think there is a  
7 time limitation there, isn't there? If the President  
8 passes an executive order, then the Congress has a certain  
9 period of time within which to veto the order. Would you  
10 favor that kind of a limitation?

11 MAYOR McKELDIN: I would think so, I would  
12 think there would be some need for a little security. If  
13 you get a governor who was politically inclined and wanted  
14 to put all of his friends in, get all of the others out,  
15 I think it would be good to have a safeguard on him, yes.

16 JUDGE ADKINS: Any other questions from this  
17 end of the room?

18 DR. BARD: Governor, in Article 2 there is a  
19 discussion of the Secretary of State. I have two questions  
20 in respect to the Secretary of State.

21 One, do you believe that it is necessary for





1 the Constitution to deal with the position of the Secre-  
2 tary of State, because it currently deals with that posi-  
3 tion in two sections. Need there be any statement in  
4 respect to the Secretary of State and, secondly, would you  
5 change --

6 MAYOR McKELDIN: Give me the first one first,  
7 explain that.

8 DR. BARD: Let's take the first one. Would  
9 you at all include a delineation of the responsibilities  
10 of the Secretary of State in the Constitution? Do you  
11 feel that it is necessary to deal with it in the Consti-  
12 tution itself, the position of the Secretary of State?

13 MAYOR McKELDIN: I don't know, I don't know,  
14 in or out, it wouldn't make any difference to me.

15 DR. BARD: Well then, secondly, would you in  
16 any sense change the responsibilities of the Secretary of  
17 State for the State of Maryland, or would you keep him as  
18 a fairly --

19 MAYOR McKELDIN: Ceremonial.

20 DR. BARD: A ceremonial position at this time.  
21 What are your feelings in respect to that?



1           MAYOR MCKELDIN: Well, it depends on what you  
2 want to do with him, what the Governor wants to do with him.  
3 For example, the salary, I think was about \$2500 when I  
4 was elected, but I brought Blanchard Randall in, and I  
5 think we raised the salary to about \$10,000 so that he  
6 really could be more than ceremonial, so that he could  
7 really be there and make some contribution, but either  
8 way, either 2500 as ceremonial or \$10,000 or \$15,000 and  
9 have him a part of the organization and part of the Ad-  
10 ministration, and do some work.

11           DR. BARD: But you don't think it is neces-  
12 sarily important to keep a description of the office in  
13 the Constitution?

14           MAYOR MCKELDIN: I think it is -- it may not  
15 be important, but it is necessary to keep it there. It  
16 gives him a little prestige, he is in the Constitution,  
17 and he signs all the commissions and all. I think it is  
18 important, I would keep it there.

19           JUDGE ADKINS: Mr. Miller.

20           MR. MILLER: Governor, Mr. Mayor, getting back  
21 to this question of a lieutenant governor, would you feel



1 that there would be any objection to having in our Consti-  
2 tution the election of a team, that is a governor and a  
3 lieutenant governor, in view of the fact that we are in  
4 a --- we have been very lucky in Maryland, we have never  
5 had any trouble; we have had no trouble on the national  
6 level where they have a team, but today our governors, of  
7 necessity, have to go abroad, and around the world, and  
8 in this atomic age there can be blockades, things of that  
9 sort. What would happen right as we are today if a governor  
10 got waylaid because of war or other emergency and was  
11 miles away and out of communication, shouldn't we have  
12 somebody empowered to perform the necessary functions in  
13 his absence?

14 MAYOR McKELDIN: Well, it might be all right,  
15 but I don't think it is important whether we do or not.

16 MR. MILLER: You don't think so?

17 MAYOR McKELDIN: No.

18 JUDGE ADKINS: Mrs. Freedlander.

19 MRS. FREEDLANDER: Mr. Mayor, when Governor  
20 Tawes was presented with two reapportionment bills, he  
21 pled for the constitutional right, or statutory, whatever





1 it is, to seek the advisory opinion of the Court of Appeals.  
2 Do you think the Governor of Maryland should have that  
3 right, that there should be a provision to allow him to  
4 seek an advisory opinion from the Court of Appeals?

5 MAYOR MCKELDIN: I think a lawyer could answer  
6 that, I mean a practicing lawyer, pardon me, a practicing  
7 lawyer, a great lawyer such as you have here as Chairman  
8 of this Commission can answer that much better than I  
9 could. I don't know, I don't know.

10 Of course, he has excellent talent available  
11 to him. There isn't a lawyer in this State, or there isn't  
12 a law firm in this State who wouldn't gladly, without  
13 charge, give him an opinion on that subject, and I should  
14 think that the Court of Appeals would be reluctant about  
15 doing that, be reluctant about having that in the Consti-  
16 tution.

17 JUDGE ADKINS: Mrs. Bothe.

18 MRS. BOTHE: Mr. Mayor, do you feel that the  
19 Adjutant General need be a constitutional office as it now  
20 is?

21 MAYOR MCKELDIN: Yes, I think so. I think it



1 is a great tradition in this State, and he has a very im-  
2 portant function, I think. When I entertained the Queen  
3 of England, when I entertained the Queen Mother of Eng-  
4 land and the King and Queen of Greece, it is awfully nice  
5 to have the Adjutant General there. It is my feeling that  
6 we don't have enough ceremonial traditions in our democra-  
7 cy, and I think we should have it, I like the color.

8 JUDGE ADKINS: Governor, I should like to ask  
9 you a question relating to the activity of another com-  
10 mittee. There is some discussion going on at the Local  
11 Government Committee of this Commission relative to the  
12 abolition of counties and the making of a provision for the  
13 creation of regional districts.

14 Would you have any -- with that little bit of  
15 background, would you have any comment to make?

16 It obviously, of course, is an attempt to meet  
17 the problems you are experiencing both here and in Metro-  
18 politan Washington with the overlapping of governmental  
19 functions within county lines, and there is some discussion  
20 going on as to whether or not we should provide in the Con-  
21 stitution either for an abolishment of the existing county



1 lines and for the creation of urban or regional districts.  
2 Would you have any thought as to whether or not that  
3 approach should be a constitutional matter?

4 MAYOR McKELDIN: No, I don't, but I think it  
5 is very important.

6 I think some place somewhere we should have  
7 some provision that would enable such action as that to  
8 take place, because it is becoming a very serious problem,  
9 as I say.

10 In Baltimore City, we are not in a county, as  
11 you know, and we have problems with Baltimore County on  
12 the north and Anne Arundel County on the south.

13 If we could have some kind of a metropolitan  
14 government, it would be greater to the advantage of both  
15 the counties and the City of Baltimore.

16 JUDGE ADKINS: Do you think it would be realis-  
17 tic to provide machinery by which voters in each of the  
18 respective present subdivisions could vote to join together  
19 in a metropolitan unit, would that be realistic?

20 MAYOR McKELDIN: It would be very desirable  
21 so far as I am concerned if you could work out something





1 that would meet with their approval. I think you would  
2 be doing a great service to the State, yes.

3 MR.ENEY: Well, if you didn't abolish coun-  
4 ties and the City of Baltimore and their separate political  
5 subdivisions but created some form of metropolitan auth-  
6 ority for the Baltimore City area embracing Baltimore City,  
7 Baltimore County, part of Harford County or all of it,  
8 Howard County and Anne Arundel County, would you favor  
9 giving such a metropolitan authority full power or merely  
10 advisory power?

11 MAYOR McKELDIN: Of course, that's a very  
12 broad question that I couldn't answer right off, but in  
13 principle, I would be in favor of that. It would have to  
14 be worked out, but in principle, I would be in favor of  
15 that. I think there should be such an authority that could  
16 embrace them and have a like a county government over five  
17 or six of us. I think it would be much better for us.

18 JUDGE ADKINS: Which would replace the existing --

19 MAYOR McKELDIN: County governments.

20 JUDGE ADKINS: -- County and City governments.

21 MAYOR McKELDIN: No, it wouldn't replace them,



1 you see, but it would act as, I think it would act as  
2 kind of a county government over all of them, have the  
3 Mayor of Baltimore, have your County Commissioners, but  
4 have --

5 JUDGE ADKINS: A supervisor.

6 MAYOR McKELDIN: A supervisor.

7 JUDGE ADKINS: In other words, interpose  
8 another governmental step?

9 MAYOR McKELDIN: Yes.

10 MR. SAYRE: And another tax structure?

11 MAYOR McKELDIN: Yes.

12 MR. ENEY: Something akin to New York City with  
13 its five boroughs?

14 MAYOR McKELDIN: Yes, yes. It is not possible  
15 for us to impose a sales tax because you can go across the  
16 line into Baltimore County, and they can't do it because  
17 they can come in here, but if we -- together we could solve  
18 a lot of our financial problems that we can't solve right  
19 now.

20 MR. SAYRE: Would you have any objection to  
21 such a super-body taking away the County or City tax auth-



1 ority and only granting to them taxes, like a little  
2 community that is incorporated, if it wants to have a one  
3 per cent tax or something and so forth, it could do so,  
4 but it would seem to me that you could get more efficient  
5 use of funds if you only had one major taxing body for  
6 local government.

7 MAYOR McKELDIN: Yes, I would be in favor of  
8 that, but that would be very difficult of accomplishment  
9 as a practical matter.

10 MR. ENEY: If you had some sort of super-metro-  
11 politan authority such as we have been talking about, do  
12 you think it would be feasible to confer on it regulatory  
13 powers but not taxing powers, or would you have to have  
14 taxing powers in order to make it function?

15 MAYOR McKELDIN: I think you would have to  
16 have taxing powers to make it function. If you don't have  
17 taxing powers, I think it would lose much of its effective-  
18 ness.

19 That is our problem now, the taxing problems,  
20 and we have a metropolitan commission that we are working  
21 on now, and we are having difficulty even with an incinerator





1 Baltimore County wants to build an incinerator for us and  
2 we want to build it for ourselves.

3 Now, if we had this form of government that  
4 you describe, it would save us all a lot of money.

5 JUDGE ADKINS: Would you take away from the  
6 existing structure, the existing governmental structure,  
7 any of its present taxing powers if you were to create  
8 taxing powers in this super-government that we are talk-  
9 ing about, or would you leave it and just simply impose  
10 new taxing powers on the existing status quo?

11 MAYOR McKELDIN: Well, if you impose new tax-  
12 ing on the status quo, you wouldn't need, of course, the  
13 taxes that we are leveling at the City level, so you wouldn't  
14 have to disturb those taxes, they would take care of them-  
15 selves, naturally. In other words, you wouldn't need as  
16 much money from the people in the City if you got the other  
17 money from an authority, a buffer.

18 JUDGE ADKINS: Does any other member of the  
19 Committee have any further questions of Mayor McKeldin?  
20 Mr. Eney, do you have any more?

21 MR. ENEY: No.



1 JUDGE ADKINS: Mr. Lane?

2 MR. SAYRE: This is a bit of an esoteric  
3 question, but have you felt the leadership abilities of  
4 the Governor have been restricted, that's number one?

5 MAYOR MCKELDIN: By the law?

6 MR. SAYRE: By the law.

7 MAYOR MCKELDIN: I don't think so.

8 MR. SAYRE: Do you think that there would be  
9 any feasibility in giving the Governor the authority to  
10 initiate by referendum -- well, actually it would be the  
11 Governor's right to initiate by referendum something that  
12 passed a majority of a House and Senate Committee, but  
13 failed passage in one or both Houses; do you think that  
14 he should have such authority to call that out to plebiscite  
15 so to speak?

16 MAYOR MCKELDIN: I wouldn't think so. I think  
17 somebody may have the authority to do that other than the  
18 Governor, but I don't think I would give it to the Governor.  
19 Give it to any citizens who want to get up a petition for  
20 a certain amount, and call for one, but I don't think it  
21 should be in the hands of the Governor.



1 JUDGE ADKINS: Dr. Bard.

2 DR. BARD: Governor, your presence today gives  
3 us an unusual advantage in that you have been Governor  
4 of the State of Maryland on two occasions now and Mayor on  
5 two occasions, and so my question, in a sense, is directed  
6 to you in terms of these dual experiences which you have  
7 had. Article 11-A deals with Home Rule and local legis-  
8 lation. To your mind, might the provisions in respect to  
9 Charter Home Rule be extended in order to give a community  
10 like Baltimore City more Home Rule than it now secures?  
11 An illustration of that would be the requirement to be  
12 secured from the Legislature in order to float a loan, let  
13 us say.

14 MAYOR McKELDIN: Yes. Of course, that's a  
15 terrible thing, of course, that Baltimore should subject  
16 itself to that, but yet we never get it. The members of  
17 the Baltimore delegation under Democrats and Republicans,  
18 they just won't give it to us. The counties have it, but  
19 we don't have it, and we try every year to get it, and we  
20 are trying this time, and I don't know whether we are going  
21 to get it or not, but before we can float a loan, we have





1 to get the Legislature to give us the authority to put it  
2 on the ballot, and, first of all, I mean with a loan, it  
3 has got to be approved first by the Planning Commission  
4 in Baltimore, then it has got to be approved by the City  
5 Council of Baltimore, then it has got to be approved by  
6 the Legislature in Annapolis, then it has to come back and  
7 be put on the ballot. Before it can be put on the ballot,  
8 it has to be approved again by the Planning Commission,  
9 before it can be put on the ballot, it has to be approved  
10 by the City Council. After it is approved by the City  
11 Council and put on the ballot, then it has to be approved  
12 by the people, and it is just a mistake, and I mean I think  
13 the Governor ought to use his influence to do what he can.  
14 When I was Governor, I did, but I didn't have enough influ-  
15 ence.

16 JUDGE ADKINS: I take it, then, if the Con-  
17 stitutional Convention elected to give you this authority  
18 that Dr. Bard speaks about, you would be very happy to re-  
19 ceive it?

20 MAYOR MCKELDIN: Oh, yes, we ought to have it,  
21 we just ought to have it. It is a matter of politics, and



1 I understand it, so I don't get worried about it because  
2 I have been in the business, and they want to keep control  
3 of the boys in the City Council, the members of the Legis-  
4 lature, so that's it; it is a peculiar reason, but that's  
5 it.

6 JUDGE ADKINS: Well, Governor, apparently we  
7 have, or Mr. Mayor, apparently we have exhausted our  
8 questions.

9 We very much appreciate your taking time to  
10 help us out. If you have any other thoughts, we would be  
11 very happy to receive them now even, or at any time in  
12 the future.

13 MAYOR MCKELDIN: Take the Governor's salary  
14 out of the Constitution, let me conclude with that.

15 JUDGE ADKINS: I think we all agree, at least  
16 the sub-committee, that this ought to be done.

17 MAYOR MCKELDIN: No governor would put it on  
18 the ballot. Being a Republican, I knew I couldn't be  
19 elected again. I put it on the ballot but I fooled myself,  
20 and I was elected, and it passed, they still kept it in the  
21 Constitution, and increased the salary to 15,000 which, of



1 course, is not enough. The Mayor of Baltimore gets  
2 25,000, the Governor gets 15,000.

3 JUDGE ADKINS: What do you think would be a  
4 reasonable gubernatorial salary in the current scene?

5 MAYOR McKELDIN: \$35,000.

6 MRS. BOTHE: Do you think, Mayor McKeldin,  
7 instead of putting a dollar figure in the Constitution,  
8 or a minimum dollar figure, that it might be tied to the  
9 salary of some other official, say the Governor must make  
10 at least as much as the Chief Judge of the Court of Appeals,  
11 or some other office, so that in case inflation continues,  
12 the Constitution will remain realistic?

13 MAYOR McKELDIN: It should not be in the Con-  
14 stitution and nobody should be compared to the Chief Execu-  
15 tive of the State of Maryland.

16 MRS. BOTHE: You would have a minimum salary,  
17 but not a maximum.

18 MAYOR McKELDIN: No, no.

19 MRS. BOTHE: You would take it out entirely?

20 MAYOR McKELDIN: No, I wouldn't have a minimum  
21 or a maximum. I would just let the Legislature decide.





1 MRS. BOTHE: But you don't feel there is any  
2 necessity for a safeguard in case the Legislature should  
3 decide to do away with the Governor's salary?

4 MAYOR McKELDIN: Being a Republican --

5 MRS. BOTHE: A Democratic Legislature.

6 MAYOR McKELDIN: I think there should be a  
7 safeguard, being a Republican, the Legislature will always  
8 be Democratic for the next 100 years, but it might be nice  
9 to have a safeguard in there for us people every twenty  
10 years when we get elected.

11 MR. ENEY: Mr. Mayor, thank you very, very  
12 much.

13 JUDGE ADKINS: Thank you very much.  
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3 CONSTITUTIONAL CONVENTION COMMISSION  
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8 Meeting of Committee on Executive  
9 Department with Former Governor William  
10 Preston Lane, Jr. was held on Thursday,  
11 February 24, 1966, at 11:45 a.m., Eastern  
12 Standard Time, at Room 301, State Office  
13 Building, Baltimore, Maryland.  
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15  
16  
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19

20 Reported by:  
21 M. Wasserman



1     COMMITTEE MEMBERS PRESENT:

2                     Honorable E. Dale Adkins, Jr.,  
3                             Chairman

4                     Calhoun Bond, Esquire  
5                     Mrs. Elsbeth Levy Bothe  
6                     Charles Mindel, Esquire  
7                     Mr. E. Phillip Sayre  
8                     Mr. Garrett Power  
9                     Ernest N. Cory, Jr., Esquire

10     ALSO PRESENT:

11                     H. Vernon Eney, Esquire,  
12                             Commission Chairman

13                     John C. Brooks, Esquire,  
14                             Executive Director of the Commission

15                     Mrs. Maurice P. Freedlander  
16                     Edward T. Miller, Esquire  
17                     Dr. Harry Bard

18                     -----

19                     JUDGE ADKINS: We promised Governor Lane that  
20                     he could be excused as promptly as possible since he has  
21                     to be out in Reisterstown, I believe, at 1 o'clock.

22                     Governor, I think if it is agreeable with you,  
23                     if you would just undertake to go right down the list of  
24                     questions, and then perhaps if there is any time left, we  
25                     will ask you our questions at the conclusion of your com-  
26                     ments.





1 GOVERNOR LANE: Well, the first is, I have no  
2 prepared statement to make in an overall presentation  
3 except to call to your attention the fact that I feel  
4 slightly disqualified because my experience -- there has  
5 been a longer gap since I was occupied as Governor, for  
6 one thing, and I discontinued the practice of law when I  
7 went to Annapolis, because I didn't think a practicing  
8 lawyer should be Governor of the State. Maybe it wouldn't  
9 be a conflict of interests, but it would be undesirable.

10 I have some thoughts about the questions,  
11 though, that the Committee has asked, and the first is the  
12 limitation of Governor to two terms, consecutive terms.  
13 The change in that was done in my administration in 1947.  
14 I was prompted to do it by some persuasion, but chiefly  
15 because of the language of Article 34 of the Declaration  
16 of Rights which implements it into the statute law, the law  
17 of our State. I still think it should be limited for two  
18 reasons. I think one term is not enough, two terms should  
19 be reasonably sufficient.

20 It would take four years for a sitting governor  
21 to get more information about what his job is going to be



1 than he had while he was running, and, secondly, it would  
2 give him another term in order to implement what he fur-  
3 ther made up his mind to try to do.

4 I think it used to be that the President of  
5 the United States was once limited to two terms. Now, I  
6 think that is sufficient.

7 If he hasn't been a good governor and if the  
8 people of the State are not inclined to agree with them,  
9 they can get rid of him.

10 Sometimes he has built up a political machine  
11 that becomes a dynasty, and I don't think that the public  
12 and the State should be exposed to a situation continuing  
13 to which they have substantial objection.

14 He can come back another time, and I think that  
15 is true in some of the other states.

16 I don't know about Ohio, but Governor Schrickett  
17 was a very good governor of Ohio and he came back two or  
18 three times, I think, because he had been such a good  
19 governor.

20 I definitely feel the same way I did some twen-  
21 ty years ago.



1           Should the Constitution provide for a method  
2 of succession to the governorship in the event of physical  
3 or mental incapacity of the Chief Executive?

4           Yes, I think it should, but I think that that  
5 is nailed down in the proposal or suggestion about a lieu-  
6 tenant governor. I can answer those together.

7           I think that the lieutenant governor should be  
8 elected when the Governor is. I don't think that it is  
9 necessary to elect a Comptroller. I rather am persuaded  
10 to the idea that that should be the province of the  
11 Governor to make that appointment.

12           Once we had to vote on the Clerk of the Court  
13 of Appeals, and I have never been able to understand the  
14 wisdom, constitutional wisdom of doing that.

15           The virtue in not changing the election of the  
16 Governor to when there is no election of Federal officials  
17 is that it is a tax-saving device, and I see no reason to  
18 change that. In addition to that, it is usual that there  
19 is a bigger vote in the combined election by people turning  
20 out and you therefore get a more widespread expression of  
21 the people in the State.





1           Should the Governor take office sooner than  
2 the fourth Wednesday in January so that he can assume res-  
3 ponsibility for the budget preparation for the next  
4 legislative session?

5           He does, anyhow. He has got to do it. The  
6 election is in November, and it might be that he needs,  
7 after a hard campaign, a brief rest, but I think the ex-  
8 perience that has been expressed by Governor Tawes and  
9 also by Mayor McKeldin, that has been our history, and I  
10 see no need to change that, to advance it.

11           I don't think we are taking any risks when I  
12 recollect the time I started on the preparation of the  
13 budget and the accommodation that was given to me in order  
14 to get a difficult and a torturous task done, and in ad-  
15 dition to that, he has got to see a lot of people who at  
16 times demand to see him, no matter what the subject of the  
17 discussion might be.

18           I don't think that the time of the Governor  
19 going into office should be changed. As you may recall,  
20 when I ran in 1946, Governor O'Connor was elected to the  
21 Senate, and he had to go to swear in in the Senate at the



1 beginning of their term in order not to get out of posi-  
2 tion with relation to seniority, so technically I have  
3 been Governor twice. The Legislature promptly elected me  
4 Governor for the interim of about six, or seven or nine  
5 days, and then I was sworn in again.

6 With reference to the administrative structure  
7 of the State being reorganized so as to concentrate more  
8 power on the Governor, yes, in some respects.

9 I am not qualified to say what the restrictions  
10 or the limitations, the detailed limitations should be,  
11 but to put it in the vernacular, the one who takes the rap  
12 for anything being done in the end is the Governor, and I  
13 think that he deserves that protection in the management  
14 of the Executive Department, and I think that the power of  
15 the Governor should be expanded with necessary or appro-  
16 priate restrictions to let him run his own department.

17 Now, the danger might be that you get something  
18 like a czar in there, too deep a political leader, and  
19 it should have in its application some form of restriction,  
20 but his hands should be loosened a little bit to run what  
21 he is responsible for, and the only way he can do it, that



1 reflects on the advice that he has, and it also reflects  
2 a little bit on whether or not he can fire someone that he  
3 has appointed.

4 I don't recall any individual, and if I did  
5 I wouldn't name them because this isn't a personal matter,  
6 but there can arise times when persons that the Governor  
7 has appointed get out of hand, usually with an extent of  
8 publicity, and the Governor ought to have a background of  
9 some control over recalcitrant individuals that get vicious  
10 and you can't get rid of them.

11 I had very little experience with that while  
12 I was in Annapolis. I can recall on two, and it wouldn't  
13 be appropriate now to say who they were.

14 I don't think that the Governor should be the  
15 only popularly executive official. I have already said I  
16 would be in favor of electing a lieutenant governor, so that  
17 he at least can learn to know the job, what it is all  
18 about, without coming in brand new.

19 I don't think that there is any necessity for  
20 electing a Comptroller. I think the Governor should appoint  
21 him.





1 I think he should also appoint the Treasurer.  
2 It is now by the Legislature, but I think as Mayor McKeldin  
3 said, we are fortunate in having had highly qualified  
4 Treasurers, and he didn't put it in this language, but the  
5 new Governor, the incoming Governor, has to exert enough  
6 persuasive power over the Legislature; if he complied or on  
7 a political basis he would never be able to appoint a  
8 Republican Treasurer, but we are fortunate in having the  
9 type and kind of people that we have had over the years.  
10 I don't see much sense in having the Legislature elect  
11 the Treasurer. The Treasurer is more responsible to the  
12 Governor than he is to the Legislature.

13 I think you could give them the right, with the  
14 advice and the consent of the Senate. That's purely a  
15 detail. If he is a good man, with the Governor's power  
16 of persuasion, he is going to be okayed as a practical mat-  
17 ter, and it doesn't need to get into the Constitution.

18 Should the heads of all administrative depart-  
19 ments serve at the will of the Governor?

20 Well, as I indicated more in detail my exper-  
21 ience, I never had much trouble, but there are times, only



1 two that I can recall, but I think that the Governor is  
2 entitled to more freedom of selection than in some detailed  
3 respects he has had, and I think that he should have,  
4 within reason, a better opportunity to get rid of them, if  
5 there is some shadow or otherwise. You have got to call  
6 them in and try them, and you will have a public circus.  
7 It is vicious and there is contamination of the individual,  
8 and the contamination of the individual shouldn't be neces-  
9 sary in order to get rid of an infrequently objectionable  
10 official who in the end owes some type of loyalty. If he  
11 is unwilling to risk a vicious attack, then I think the  
12 obligation is on him to resign and get out, but the  
13 Governor in that respect, I think, needs some protection,  
14 but it is very vague and occurs only infrequently.

15 Should the heads of all administrative depart-  
16 ments serve at the will of the Governor?

17 Yes, I think they should.

18 He should be given, maybe some restriction  
19 should be put on that in order to keep maybe the Governor  
20 from getting out of hand at times. The Governor is less  
21 apt to get out of hand, though, than the individual, the



1 other individual because the Governor is the one that can't  
2 be relieved unless he is impeached. That hasn't happened.  
3 I don't anticipate actions of that kind in the future.

4 Should the Board of Public Works be reorganized?

5 I think there is a virtue in the Board of  
6 Public Works, but after listening to Governor Tawes, I  
7 think it should be revamped. It has served a function in  
8 the past, at least during my term of office.

9 Now, listening to him, which is a more recent  
10 experience, he says they are just loaded with the discus-  
11 sions and decisions of inconsequential matters. I think,  
12 and I would recommend this suggestion, that you accept the  
13 thinking on that from Governor Tawes who has the most  
14 recent exposure than you would without any further comment  
15 from me.

16 Should the Merit System for appointments and  
17 promotions be extended to all State employees other than  
18 department heads?

19 My opinion on that is very limited. If you  
20 have got people that are good, you want to keep them.  
21 That clashes a bit with the power of the Governor insofar





as the people he appoints are concerned.

Certainly, the Merit System should be preserved in its structure because they need protection in the holding of their jobs. Their protection has worked in the past, and certainly no serious complaints about it have been called to my attention, and I wouldn't be qualified personally to comment on that either.

Should the Governor be given the power to alter the functions of the administrative departments to the extent necessary for efficient administration?

I think he should, but so long as he doesn't in doing that, violate any law that has been passed by the Legislature for the regulation. I would say otherwise you would put the Governor up in the position of doing whatever he pleases, and that could be handled by any restrictions on revamping that the Legislature has tied down, and it oughtn't to go beyond that. What authority the Legislature has done in particular instances should be continued, and I think about the people that have served, well, our prison setup for one, how essential it is to have people that are qualified and who conduct themselves



1 in a proper way. It is certainly for their protection.  
2 He shouldn't, in doing that, be permitted to ignore any  
3 existing law that the Legislature has produced or that they  
4 may pass in the future, but the control of that, I think,  
5 should, to that extent, remain with the Legislature, in  
6 case the Governor gets out of hand.

7 Should the Governor have the power to require  
8 administrative departments to furnish him with information?

9 That goes without saying.

10 What powers does the Governor need to fulfill  
11 his functions as preparer of the budget?

12 I would let him alone. There isn't anything  
13 I feel more strongly about than that. Otherwise, he would  
14 be running around in a circle, and I think in my experience  
15 insofar as the budget is concerned, there is some unusual  
16 language with reference to education.

17 Maybe I shouldn't say this, but I will. The  
18 only way at times I was able to balance the budget because  
19 of the size of the budget for the educational setup, which  
20 Tom Pullen was getting the most amount of money -- now,  
21 you have, true enough, Jim Rennie, and so forth, and his



1 function is -- he is a fighter, he argues because his  
2 instructions are to cut the budget down, and that produces  
3 fights and, therefore, people whose budgets he trims are  
4 personally antagonistic to him because of the quarrels  
5 they have had, and the only way that I could once or twice  
6 get the budget balanced was to have personal conversation  
7 with Tom Pullen, and I know one occasion that -- because  
8 that's where the biggest amount of money was -- I said,  
9 Tom, I am in trouble. So he said, That's unfortunate,  
10 any way I can help you, and that was an unfortunate thing  
11 for him to say, and I was short about a million and a  
12 quarter dollars, and I had given stern directions to the  
13 Budget Director, and I said, Look, I am a little short, and,  
14 well, I said, Is there any way you can help me out, and I  
15 said, Take four or five days and think it over, and he came  
16 back, and he said, I figure I can raise, get you 750,000,  
17 and I said, I am sorry, take a few more days, the deficit  
18 is a million and a quarter. He got it.

19 Now, those are the things, the kind of things  
20 you have to do in order to come out without having a donny-  
21 brook, sometimes you have got to handle things that way,





1 but they have got to be good friends of yours, otherwise  
2 you won't succeed. I don't know why I said all that.

3 Should the Governor have the power to dele-  
4 gate his powers of executive clemency?

5 No, he gets advice instead, and it is usual  
6 to talk, as Governor Tawes and Mayor McKeldin have said,  
7 he talks to judges, he talks to almost everybody he can  
8 in order to inform himself with the information he needs  
9 for the exercise of it, and if it should be spread around  
10 in various places, well, you run the risk of getting in a  
11 mess. I think the Governor should accept that responsi-  
12 bility no matter how he works it out, and I would depend  
13 on him to work it out in a creditable way, but I think  
14 there is a danger in spreading it around too much.

15 Should the Governor have the power to grant a  
16 nolle prosequi?

17 I never heard of it before I read the Consti-  
18 tution, and I had no participation in any activity under  
19 it, and I think it should be deleted as a dead letter.

20 Should the Governor have a veto power?

21 Of course.



Should a 3/5 vote of the Legislature be able to override a veto?

Yes.

Does the six-day period give the Governor sufficient time to consider whether or not to veto a bill?

Well, Mayor McKeldin said No, and Governor Tawes said Yes, and that is only because of a system that they work out. It is the day that they present it to the Governor and they don't present it to the Governor because it is on its way through the Attorney General's office, so that gives him the elbow room he needs, but if it was a stricture to do it, then something ought to be done about it.

Should the Governor's pocket veto be expanded so that bills that die by veto or by being left unsigned after the Legislature adjourns need not be returned at the next session of the Legislature for possible override?

Well, that is sort of an academic kind of a question. It indicates lightly that the Governor isn't on the job on his obligations to say what he thinks and do, but on the other hand, they can start it all over again as



1 a new bill. To me it doesn't make any difference, but I  
2 do admit that six days with a stricture, with everything  
3 else he has to do, it is a stricture, it is a deadline,  
4 in other words, and the way it works out is, it is purely  
5 a question of how long the Attorney General keeps the  
6 bill because that is not presented to the Governor until  
7 he gets it from the Attorney General.

8 Should the Governor have an item veto?

9 Yes, but it should be restricted to the appro-  
10 priation bills.

11 JUDGE ADKINS: Thank you very much, sir.

12 Ladies and gentlemen, any questions? Mrs. Bothe.

13 MRS. BOTHE: When you were talking about your  
14 budget problems, Governor Lane, it occurred to me to ask  
15 you about Article 8, Section 3, which provides that the  
16 School Fund of the State shall be kept inviolate, and  
17 appropriated only to the purposes of Education. Do you  
18 feel that that is an advisable restriction on the budget  
19 powers of the State?

20 GOVERNOR LANE: It didn't make too much dif-  
21 ference to me because of my fraternity with Tom Pullen.





1 MRS. BOTHE: You don't feel that it had any  
2 practical effect one way or another?

3 GOVERNOR LANE: It is the kind of a situation  
4 that is often brought up as the possibility of a threat,  
5 and the question is a difficult one. Certainly, I think  
6 that the State should do its duty insofar as our education-  
7 al structure is concerned, but I don't think it should be  
8 restricted in that by some arbitrary individual. I think  
9 they need that protection so long as they don't run wild  
10 with it. I think this should be a judgment of a person  
11 who has the responsibility of the financial integrity of the  
12 State. Well, if something isn't done about it to appoint  
13 the way not arbitrarily from one side or another, then I  
14 think the only way you can possibly work it out is as I  
15 told you before, and that is one of the reasons why I dis-  
16 cussed my contact with the Superintendent of the schools.

17 MRS. BOTHE: You feel that he should continue  
18 to have this power over the budget, so to speak, to keep  
19 the School Fund inviolate and have to work with the Governor  
20 if a million or so is needed?

21 GOVERNOR LANE: It depends on who it is. If



1 it is used as threat, and picturing the State in financial  
2 stress, something has to give way, the schools should  
3 be last.

4 MRS. BOTHE: And you feel, then, that it  
5 should remain in the Constitution so that the schools will  
6 be last?

7 GOVERNOR LANE: I think it ought to be studied  
8 by this Committee, but I don't think that they ought to  
9 have an arbitrary stand one way or the other, but I think  
10 that the Education Department should be reasonable enough  
11 if the objection is raised automatically to be willing to  
12 try to straighten it out so it will be able to work in  
13 cases of emergency.

14 MR. BOND: Governor Lane, you, in discussing  
15 the removal of department heads and the power of the  
16 Governor to appoint, you said you had some reservation  
17 about a completely unrestricted power being vested in the  
18 Governor to remove and appoint.

19 Do you think that by making the various boards  
20 that are advisory that are connected with these departments,  
21 advisory boards, that that would be enough of a limitation



1 so that no Governor would ever act in an arbitrary manner  
2 on a removal or on an appointment? Do you think the ad-  
3 visory board would fill that function, in other words,  
4 the State Department of Welfare, the State Board became  
5 an advisory board; Mental Hygiene became an advisory board;  
6 Education became an advisory board, would those, would  
7 the existence of those boards act as the limitation that  
8 was bothering you that there should not be a complete un-  
9 restricted power in the Governor on the department heads?

10 GOVERNOR LANE: It depends on how it will work.  
11 I can't say Yes, because I am not convinced that that  
12 would be sufficient. I can't say No, because when you want  
13 to get rid of someone -- well, I had the problem once,  
14 and I won't name the department, it had a board of something  
15 like three members, and there was a division of opinion  
16 about how the thing should be run, and two of the members  
17 came down and sat with me four or five times to tell me  
18 their troubles, and they were down there about five or six  
19 times, and I called to their attention finally that they  
20 were a majority of that board, why didn't they straighten  
21 it out, I was only the Governor, and I said, I am now think-





1 ing about whether or not I ought to get rid of the whole  
2 board and get some people down there that will run it with-  
3 out bothering me with it. They didn't come back any more.

4 MR. BOND: Well, Governor, that is the point,  
5 I mean this is the thing that is concerning us. In other  
6 words, in many of the departments throughout the State  
7 now, there are boards, take Welfare, just the one I am con-  
8 nected with, we have a budget of 100 million dollars right  
9 now, it is a nine-man board, and the law vests the auth-  
10 ority for the administration of that department, not in  
11 the Governor, but in this board.

12 Now, I think I am coming around to the point  
13 of view that I think perhaps that is wrong because the  
14 board is part time, but assuming that all department heads,  
15 that all advisory boards and that all administrative  
16 boards became advisory, and assuming that all heads of  
17 departments served at the will of the Governor, I hear you  
18 saying that you want some sort of little restriction that  
19 you think might be advisable on the Governor, is that cor-  
20 rect or not?

21 GOVERNOR LANE: Maybe my first thought on that



1 was out of the top of my head. You said 100 million dol-  
2 lars, where does that money come from?

3 MR. BOND: It comes from Federal, State and  
4 local funds, sir. I would say about 60 per cent of it  
5 from the Federal Government, but it comes into the State  
6 and is allocated by this board.

7 GOVERNOR LANE: Yes.

8 MR. BOND: Of course, you have to deal with  
9 the Bureau of the Budget, too.

10 GOVERNOR LANE: Yes.

11 MR. BOND: And with the Governor, but still  
12 the administrative authority for that department is vested  
13 in the board which I am coming more and more to the con-  
14 clusion is wrong.

15 GOVERNOR LANE: Well, the State in a sense is  
16 concerned only by its contribution. I think the State  
17 should have to that extent which you indicated was what,  
18 40 per cent or --

19 MR. BOND: It is about 30 per cent, sir, and  
20 10 per cent local funds, depending on the program.

21 GOVERNOR LANE: 30 per cent less in authority,



1 and in its background, the Welfare Board is a Federal over-  
2 all project. I don't think that the Governor should have  
3 too much say about that because of the amount of money in-  
4 volved. I think it depends on who is Governor, and the  
5 question as to where he can get the money.

6 MR. BOND: Well, the funds come in from Wash-  
7 ington, sir, but they go through your line budget. It is  
8 an in and out proposition.

9 Then that rises to my next question, I won't  
10 belabor this any more. We have also been concerned about  
11 the Bureau of Budget and Mr. Rennie, and the other two  
12 gentlemen who preceded you definitely think it should be  
13 the Governor's budget and the Governor's administration.

14 I wonder, do you see any other answer than  
15 having a Mr. Rennie, or a Department of Budget who will  
16 be the Governor's tool in order to cooperate with all  
17 these various heads?

18 GOVERNOR LANE: No.

19 MR. BOND: Do you see any other way that that  
20 can be worked out?

21 GOVERNOR LANE: No, I don't see any practical





1 way. It is the Governor's responsibility in the present  
2 setup. I think the setup has worked well.

3 I am not talking about the current Legislature,  
4 but you have to protect yourself against a cross section  
5 of people that might go haywire, I mean that, and there  
6 has got to be a definite control. No public official  
7 necessarily of his own volition wants to limit the amount  
8 of money that he thinks he needs to do a good job, and you  
9 have got to have somebody around to tell him.

10 JUDGE ADKINS: Do the members of the Committee  
11 have any questions? Mr. Miller.

12 MR. MILLER: Governor, I understood that you --  
13 I would like to clarify one thing in your thinking. You  
14 spoke of believing it to be desirable for the Governor to  
15 be able to make reorganization plans with the various  
16 departments, but you sort of qualified it by saying, of  
17 course, it would have to be done with legislative authority.

18 Do you think that a plan somewhat like the  
19 Hoover Commission on the Federal basis where the Governor  
20 could submit a plan for reorganization and it would go into  
21 effect unless it was affirmatively turned down by the



1 Legislature at some appropriate deadline later would solve  
2 that problem? It would still give the Legislature a right  
3 to maintain the law as it had been passed, but it would  
4 also open the door so it wouldn't require an act of the  
5 Legislature to change the organization of some department.

6 GOVERNOR LANE: Well, what I was trying to say  
7 was that I think that there should be some check, and it  
8 would depend upon the importance of the change on the one  
9 hand, and I did say I think that it would depend upon not  
10 violating any existing law, because he would have to go  
11 back to the Legislature to have that area corrected, or  
12 any Act that the Legislature might pass thereafter where  
13 they didn't agree with what he had done.

14 MR. MILLER: Well, of course, if the Legisla-  
15 ture sets up a department, any change in it might be con-  
16 trary to law, but if the Constitution provided that the  
17 Governor in the interest of modernizing or bringing econ-  
18 omies in as was attempted and a very great deal accomplished  
19 by the Hoover Commission reports on the Federal basis, if  
20 the Governor had the authority to submit a reorganization  
21 plan and then it could be voted down by the Legislature,



1 but if they didn't do it within a certain period or a cer-  
2 tain percentage of the Legislature did not vote it down,  
3 it wouldn't stop progress, in other words.

4 GOVERNOR LANE: No, you are really answering  
5 your question so far as my thinking is concerned.

6 MR. MILLER: You wouldn't oppose such a power;  
7 then, for the governors to submit it?

8 GOVERNOR LANE: No. What I was trying to say  
9 was that I didn't think that he should have an arbitrary  
10 and unlimited power to do that.

11 MR. MILLER: I agree, sir.

12 GOVERNOR LANE; Now, this is more how it could  
13 be accomplished.

14 JUDGE ADKINS: Governor Lane, I think in fair-  
15 ness to you, we are going to have to terminate the questions  
16 if you are going to keep your next appointment on time.  
17 Thank you very much for making yourself available.

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